

STATE OF
IDAHO

ELECTION LAWS

2023

A Compilation of Election Laws with
Amendments Through the 2023
Regular Session of the Legislature



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IDAHO SECRETARY *OF* STATE

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2023 Idaho Election Calendar

- Aug. 15 **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the Aug. 29 election. [[§34-308, Idaho Code](#)]
- Aug. 17 **Poll Watchers:** Deadline for pro and con representatives to submit a written request (to the county clerk) for the purpose of authorizing watchers to observe at polling places — for the Aug. 29 election. [[§34-304, Idaho Code](#)]
- Aug. 17 **Publish First Election Notification:** Deadline for county clerk to publish the first notice of election — in the county's official newspaper(s) — for the Aug. 29 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [[§34-602](#) and [§34-1406, Idaho Code](#)]
- Aug. 18 **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the Aug. 29 election. [[§34-1002\(7\), Idaho Code](#)]
- Aug. 24 **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election — along with a facsimile sample ballot — for the Aug. 29 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [[§34-602](#) and [§34-1406, Idaho Code](#)]
- Aug. 24 **Emergency Absentee Ballots:** County clerks may receive emergency absentee ballot applications from this time through 5 p.m. on August 30 from those who cannot be present for voting due to hospitalization if hospitalization began after 5 p.m. on August 18. [[§34-1002A, Idaho Code](#)]
- Aug. 25 **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the Aug. 29 election. [[§34-1002\(7\)](#) and [§34-1012, Idaho Code](#)]
- Aug. 27–Sep. 3 **Publish Notification of Candidate Filing Deadline:** County clerk (and city clerk, for municipal offices) must publish a notification of the candidate filing deadline for all taxing districts for which officers will be elected in the Nov. 7 election — during this period. The notice should appear in the official newspaper of the political subdivision. [[§34-1405](#) and [§50-411, Idaho Code](#)]
- Aug. 28 **City Candidate Filing Opens:** Candidates for city elective offices may file nomination petitions with the city clerk beginning at 8 a.m. [[§50-410, Idaho Code](#)]
- Aug. 29 **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. for the Aug. 29 election. [[§34-1005, Idaho Code](#)]
- Aug. 29 **Election Day:** Polling places — and the county clerk's office — to be open 8 a.m.–8 p.m. Qualified individuals may register and vote at their designated polling place on election day. [[§34-211](#), [§34-408A](#), and [§34-1101, Idaho Code](#)]
- Aug. 30 Voter Registration Reopens [[§34-408, Idaho Code](#)]
- Sep. 8 **Nonpartisan Candidate Filing Deadline:** Petitions must be filed by 5 p.m. — with the clerk of the political subdivision — to nominate political subdivision candidates — for the Nov. 7 election. [[§34-1404](#) and [§50-410, Idaho Code](#)]
- Sep. 8 **City Nonpartisan Write-In Candidates:** Deadline for write-in candidates for city offices to file a declaration of intent with clerk of the political subdivision for the Nov. 7 election. [[§34-702A, Idaho Code](#)]
- Sep. 8 **County Canvass:** Deadline for the board of county commissioners to meet and conduct the canvass — of the Aug. 29 election. [[§34-1410, Idaho Code](#)]
- Sep. 8* **County Election Certification:** Deadline for county clerks to certify the results — of the Aug. 29 election — to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the canvass.) [[§34-1410, Idaho Code](#)]
- Sep. 15 **Nonpartisan Nominee Certification:** Deadline for the clerk of the political subdivision to certify nominees — to be placed on the ballot — for the Nov. 7 election. [[§34-1404, Idaho Code](#)]
- Sep. 15 **Nonpartisan Write-In Candidates:** Deadline for write-in candidates to file a declaration of intent with clerk of the political subdivision for the Nov. 7 election. [[§34-1407, Idaho Code](#)]
- Sep. 18 **Ballot Question Submission Deadline:** Political subdivisions must submit ballot language (to the county clerk) for any bond, levy, initiative, referendum, or other question — to be placed on the ballot — for the Nov. 7 election. [[§34-106, Idaho Code](#)]

2023 ELECTION CONSOLIDATION CALENDAR

- Sep. 22 **Nonpartisan Candidate Withdrawal Deadline:** Last day nonpartisan candidates can withdraw from the Nov. 7 election. [[§34-1405A](#), *Idaho Code*]
- Sep. 22 **Recall Notification Deadline:** Political subdivisions must notify the county clerk if a recall election is ordered — for the Nov. 7 election. [[§34-106\(9\)](#), *Idaho Code*]
- Sep. 22 **Absentee Ballot Delivery Witnesses:** Deadline for political parties to supply names of witnesses (if desired) to accompany the clerk in the personal delivery of an absentee ballot for the Nov. 7 election. [[§34-1003\(5\)](#), *Idaho Code*]
- Sep. 25* **Early Voting Security Plan:** Deadline for county clerks to submit their ballot security plan to the secretary of state. (*NOTE: The Early Voting Security Plan must be submitted at least 30 days prior to implementing and early voting plan. If a plan was submitted and approved earlier in the year, and has not changed, it need not be resubmitted.) [[§34-1013](#), *Idaho Code*]
- Sep. 28 **Voting Procedure Modifications:** Deadline for county clerks to submit their plans to the secretary of state; if they want to modify voting procedures (for a political subdivision) — for the Nov. 7 election. [[§34-1413](#), *Idaho Code*]
- Sep. 28* **Recount Applications:** Deadline — for supporters or opponents of a ballot measure — to apply to the county clerk for a recount of the Aug. 29 election. (*This date may vary; it must be done within 20 days of the canvass). [[§34-2301](#), *Idaho Code*]
- Sep. 28* **Election Disputes:** Deadline for electors to contest the results — of the Aug. 29 election. (*This date may vary; complaints must be filed in the proper court within 20 days of the canvass.) [[§34-2008](#), *Idaho Code*]
- Oct. 6 **Designate Polling Places:** Deadline for county commissioners to designate polling places — for the Nov. 7 election. [[§34-302](#), *Idaho Code*]
- Oct. 10 **Mail Absentee Ballots:** County clerks must mail absentee ballots — to voters who have requested absentee ballots — for the Nov. 7 election. [Secretary of State Directive 2015-1]
- Oct. 13 **Preregistration Deadline:** Voter registrations must be received by the county clerk — for the Nov. 7 election. (Deadline is postmarked by this date for mailed paper applications, 5 p.m. for paper applications handed in to the county clerk’s office, or until midnight for online applications.) [[§34-408](#) and [§34-410](#), *Idaho Code*]
- Oct. 16 **Mail Ballot Precincts:** County clerks may begin mailing ballots to voters located in designated mail ballot precincts — for the Nov. 7 election. [[§34-308](#), *Idaho Code*]
- Oct. 23 **Early Voting Must Begin:** For the Nov. 7 election in those counties that choose to conduct early voting. [[§34-1012](#), *Idaho Code*]
- Oct. 24 **Mail Ballot Precincts:** Deadline for county clerks to complete mailing ballots to voters in designated mail ballot precincts — for the Nov. 7 election. [[§34-308](#), *Idaho Code*]
- Oct. 26 **Poll Watchers:** Deadline for candidates or pro and con representatives to submit a written request (to the county clerk) for the purpose of authorizing watchers to observe at polling places — for the Nov. 7 election. [[§34-304](#), *Idaho Code*]
- Oct. 26 **Publish First Election Notification:** Deadline for county clerk to publish the first notice of election — in the county’s official newspaper(s) — for the Nov. 7 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [[§34-602](#) and [§34-1406](#), *Idaho Code*]
- Oct. 27 **Absentee Ballot Application Deadline:** Applications must be received by the county clerk by 5 p.m. — for the Nov. 7 election. [[§34-1002\(7\)](#), *Idaho Code*]
- Oct. 27 **Election Register Examination:** Deadline for county clerks to examine the election register, from the Aug. 29 election, and note challenges. [[§34-432\(1\)](#), *Idaho Code*]

2023 ELECTION CONSOLIDATION CALENDAR

- Nov. 2 **Publish Second Election Notification:** Deadline for county clerk to publish the second notice of election along with a facsimile sample ballot — for the Nov. 7 election. (If possible, the notice should appear in at least two newspapers published in the county. If not possible, it should be published in one newspaper published or circulated in the county.) [[§34-602](#) and [§34-1406](#), *Idaho Code*]
- Nov. 2 **Emergency Absentee Ballots:** County clerks may receive emergency absentee ballot applications through 5 p.m. on November 6 from those who cannot be present for voting due to hospitalization if hospitalization began after 5 p.m. on October 27. [[§34-1002A](#), *Idaho Code*]
- Nov. 3 **In-Person Absentee/Early Voting Ends:** At 5 p.m. — for the Nov. 7 election. [[§34-1002\(7\)](#) and [§34-1012](#), *Idaho Code*]
- Nov. 7 **Absentee Ballot Return Deadline:** Voted absentee ballots must be received — by the county clerk — by 8 p.m. for the Nov. 7 election. [[§34-1005](#), *Idaho Code*]
- Nov. 7 **Election Day:** Polling places — and the county clerk’s office — to be open 8 a.m.–8 p.m. Qualified individuals may register and vote at their designated polling place on election day. [[§34-211](#), [§34-408A](#), and [§34-1101](#), *Idaho Code*]
- Nov. 8 Voter Registration Reopens [[§34-408](#), *Idaho Code*]
- Nov. 17 **County Canvass:** Deadline for the board of county commissioners to meet and conduct the canvass — of the Nov. 7 election. (This deadline also applies to the canvass for political subdivisions.) [[§34-1205](#) and [§34-1410](#), *Idaho Code*]
- Nov. 17* **County Election Certification:** Deadline for county clerks to certify the results of the Nov. 7 election to the clerk of the political subdivision(s). (*This date may vary; to be done immediately after the county canvass.) [[§34-1410](#), *Idaho Code*]
- Nov. 17* **Election Certificates:** Deadline for the clerk of the political subdivision to issue certificates of election. (*This date may vary; to be done immediately after the county canvass.) [[§34-1410](#), *Idaho Code*]
- Dec. 7* **Recount Applications:** Deadline — for candidates and supporters/opponents of a ballot measure, excluding city candidates and city or county ballot measures — to apply to the county clerk for a recount of the Nov. 7 election. Applications for a recount of city elections or county ballot measures must be filed with the Attorney General. (*This date may vary; it must be done within 20 days of the county canvass.) [[§34-2301](#), *Idaho Code*]
- Dec. 7* **Election Disputes:** Deadline for electors to contest the results of the Nov. 7 election. (*This date may vary; complaints must be filed in the proper court within 20 days of the county canvass. [[§34-2008](#), *Idaho Code*]
- Dec. 7 **City Runoff Elections:** If authorized by city ordinance, last day for a runoff city election between the two candidates receiving the highest number of votes cast if no candidate received a majority of the votes cast. [[§50-612](#) and [§50-707B](#), *Idaho Code*]
- Dec. 31 **2024 Election Calendar Publication Deadline:** County clerks to publish the 2024 election calendar. [[§34-1405\(2\)](#), *Idaho Code*]
- Jan. 5, 2024 **Election Register Examination:** Deadline for county clerks to examine the election register, from the Nov. 7 election, and note challenges. [[§34-432\(1\)](#), *Idaho Code*]

2024 Idaho Election Calendar

This edition of the 2024 Idaho Election Calendar is subject to amendatory changes during the 2024 session of the Idaho Legislature. If changes occur, an updated version will be published.

- Nov. 28, 2023 Last Day for Political Parties to Notify Secretary of State Who Can Vote in the Party's Primary Election. [§34-904A(2), *Idaho Code*]
- Dec. 2023 County Clerks to Publish the 2024 Election Calendar. [§34-1405, *Idaho Code*]
- Jan. 5 Last Day for County Clerks to Examine the Election Register and Note Challenges. [§34-432(1), *Idaho Code*]
- Jan. 12 Last Day for County Commissioners to Establish Election Precincts. [§34-301(1), *Idaho Code*]
- Jan. 19 Target Date for County Clerks to Provide the Secretary of State a Precinct Report. [§34-301(2), *Idaho Code*]
- Jan. 19 Last Day for County Clerks to Submit an Early Voting Ballot Security Plan to the Secretary of State. [§34-1013, *Idaho Code*]
- Jan. 19 Last Day for County Clerks to Deliver a Precinct Committeemen List. [§34-502, *Idaho Code*]
- Feb. 1 Last Day for Chairs of County Central Committees to Certify Precinct Committeemen. [§34-502, *Idaho Code*]
- Mar. 1 – 8 County Clerks to Publish a Notice of the Candidate Filing Deadline for the Primary Election. [§§34-1405 and 50-411, *Idaho Code*]
- Mar. 4 – 15 Declaration of Candidacy Filing Period for the Primary Election. [§§34-704, 34-705, 34-708, 34-708A, and 34-1404, *Idaho Code*]
- Mar. 15 Last Day to Change Political Party Affiliation or Become Unaffiliated Before the Primary Election. [§34-411A, *Idaho Code*]
- Mar. 18 Last Day to Notify Political Parties of Candidates Who Filed for the Primary Election. [§34-706, *Idaho Code*]
- Mar. 22 Last Day for Clerks of Political Subdivisions to Certify Nonpartisan Nominees to be Placed on the Primary Ballot. [§34-1404, *Idaho Code*]
- Mar. 22 Last Day for Clerks of Political Subdivisions to Submit Ballot Language for the Primary Election. [§34-106(8), *Idaho Code*]
- Mar. 22 Last Day for the Secretary of State to Issue a Postelection Audit Directive for the Primary Election. [§34-1203A(2), *Idaho Code*]
- Mar. 22 Last Day for Write-In Candidates to File Declarations of Intent for the Primary Election. [§§34-702A and 34-1407(2), *Idaho Code*]
- Mar. 25 Last Day for the Secretary of State to Certify Political Party Candidates for the Primary Election. [§34-705(2), *Idaho Code*]
- Mar. 29 Last Day for Partisan Candidates to Withdraw from the Primary Election. [§34-717, *Idaho Code*]
- Apr. 1 Last Day for County Commissioners to Designate a Mail Ballot Precinct. [§34-308, *Idaho Code*]
- Apr. 1 Last Day for County Clerks to Print Absentee Ballots. [§34-1003, *Idaho Code* and Secretary of State Directive 2015-1]
- Apr. 5 Last Day for Nonpartisan Candidates to Withdraw from the Primary Election. [§34-1405A, *Idaho Code*]
- Apr. 5 Last Day for Political Parties to Supply Names of Absentee Ballot Delivery Witnesses. [§34-1003(5), *Idaho Code*]
- Apr. 5 Last Day to Order a Recall Election to be Held in the Primary Election. [§34-106(9), *Idaho Code*]
- Apr. 5 Last Day for County Clerks to Mail Absentee Ballots for Candidates for Federal Office Where the Requested Absentee Ballot was Received at Least 45 Days Before the Primary Election. [§34-1003(3), *Idaho Code*]

2024 PRIMARY & GENERAL ELECTION CALENDAR

- Apr. 5 Last Day for County Clerks to Submit a Modified Early Voting Ballot Security Plan for the Primary Election. [~~§34-1013~~, *Idaho Code*]
- Apr. 11 Last Day for the Secretary of State to Provide the Sample Form of the Primary Election Ballot. [§§34-712 and 34-903, *Idaho Code*]
- Apr. 19 Last Day for Precinct Committeemen to Recommend and for County Clerks to Appoint Election Judges. [~~§34-303~~, *Idaho Code*]
- Apr. 19 Last Day for County Commissioners to Designate a Polling Place for each Election Precinct for the Primary Election. [~~§34-302~~, *Idaho Code*]
- Apr. 26 Preregistration Deadline for the Primary Election. [~~§34-408~~, *Idaho Code*]
- Apr. 29 County Clerks May Begin Mailing Primary Election Ballots in Mail Ballot Precincts. [~~§34-308(3)~~, *Idaho Code*]
- Apr. 30 Last Day to Circulate and Gather Initiative Petition Signatures (Date is dependent upon when the 18-month period started). [~~§34-1802(1)~~, *Idaho Code*]
- May 1 Last Day to Submit Initiative Petition Signatures to the County Clerk (Date is dependent upon when 18-month period started). [~~§34-1802(2)~~, *Idaho Code*]
- May 6 Early Voting for the Primary Election Begins. [~~§34-1012~~, *Idaho Code*]
- May 7 Last Day for County Clerks to Mail Primary Election Ballots in Mail Ballot Precincts. [~~§34-308(3)~~, *Idaho Code*]
- May 9 County Clerks to Publish the First Notice of the Primary Election. [§§34-602 and 34-1406, *Idaho Code*]
- May 9 Last Day for Political Parties and Candidates to Request Polling Place Challengers & Watchers for the Primary Election. [~~§34-304~~, *Idaho Code*]
- May 10 Absentee Ballot Application Deadline. [~~§34-1002(7)~~, *Idaho Code*]
- May 16 County Clerks to Publish the Second Notice of the Primary Election. [§§34-602 and 34-1406, *Idaho Code*]
- May 16 – 20 Registered Electors May Submit Emergency Situation Absentee Ballot Application. [~~§34-1002A~~, *Idaho Code*]
- May 17 Early Voting for the Primary Election Ends. [~~§34-1012~~, *Idaho Code*]
- May 17 In-Person Absentee Application Deadline. [§§34-1002(7) and 34-1006, *Idaho Code*]
- May 21 PRIMARY ELECTION DAY. [§§34-102, 34-601, 34-211 and 34-1101, *Idaho Code*]
- May 21 Absentee Ballot Return Deadline for the Primary Election. [~~§34-1005~~, *Idaho Code*]
- May 22 Voter Registration and Party Affiliation Change Reopens. [~~§34-408~~, *Idaho Code*]
- May 28 Last Day for the County Board of Canvassers to Meet and Canvass the Primary Election Returns, and Make a Statement of Votes Cast. [§§34-1205, 34-1206 *Idaho Code*]
- May 28 Secretary of State to Identify and Order a Postelection Audit of the Primary Election. [~~§34-1203A~~, *Idaho Code*]
- May 29 Last Day for County Clerks to Issue Certificates of Nomination and Election. [~~§34-1208~~, *Idaho Code*]
- May 31 Last Day for County Central Committees to Meet to Elect Officers. [~~§34-502~~, *Idaho Code*]
- May 31 Last Day for Legislative District Central Committees to Meet to Elect Officers. [~~§34-503~~, *Idaho Code*]
- Jun. 5 Last Day for State Board Canvassers to Meet to Canvass Abstracts from the Primary Election. [~~§34-1211~~, *Idaho Code*]
- Jun. 5 Secretary of State to Issue Certificates of Nomination/Election. [~~§34-1214~~, *Idaho Code*]
- Jun. 17* Last Day to Apply for a Recount of Ballots Cast for County or Municipal Office or County or Political Subdivision Ballot Measure in the Primary Election. *Date may vary - must be done within 20 days of official canvass. [~~§34-2301~~, *Idaho Code*]

2024 PRIMARY & GENERAL ELECTION CALENDAR

- Jun. 25* Last Day to Apply for a Recount of Ballots Cast for Federal or State Office or Statewide Ballot Measure in the Primary Election. *Date may vary - must be done within 20 days of official canvass. [[§34-2301](#), *Idaho Code*]
- Jun. 28 Last Day for County Clerks to Verify Petition Signatures. [[§34-1802\(3\)](#), *Idaho Code*]
- Jul. 8 Ballot Question Submission Deadline for the August Election. [[§34-106\(8\)](#), *Idaho Code*]
- Jul. 12 Last Day for Political Parties to Supply Names of Absentee Ballot Delivery Witnesses for August Election. [[§34-1003\(5\)](#), *Idaho Code*]
- Jul. 12 Last Day to Order a Recall Election to be Held in the August Election. [[§34-106\(9\)](#), *Idaho Code*]
- Jul. 12 Last Day for County Clerks to Submit a Modified Early Voting Ballot Security Plan for the August Election. [[§34-1013](#), *Idaho Code*]
- Jul. 18 Last Day for County Clerks to Print Absentee Ballots for the August Election. [[§34-1003](#), *Idaho Code* and Secretary of State Directive 2015-1]
- Jul. 18 Last Day for County Clerks to Submit a Modified Voting Procedures Plan. [[§34-1413](#), *Idaho Code*]
- Jul. 19 Last Day for County Clerks to Examine Election Registers and Note Challenges from the Primary Election. [[§34-432](#), *Idaho Code*]
- Jul. 26 Last Day for County Commissioners to Designate Polling Places for the August Election. [[§34-302](#), *Idaho Code*]
- Jul. 26 Last Day for Precinct Committeemen to Recommend and for County Clerks to Appoint Election Judges for the August Election. [[§34-303](#), *Idaho Code*]
- Jul. 26 Last Day for County Clerks to Mail Absentee Ballots for the August Election. [[§34-1003](#), *Idaho Code* and Secretary of State Directive 2015-1]
- Aug. 2 Preregistration Deadline for the August Election. [[§34-408](#), *Idaho Code*]
- Aug. 5 County Clerks May Begin Mailing August Election Ballots in Mail Ballot Precincts. [[§34-308](#), *Idaho Code*]
- Aug. 7 Last Day for Magistrates to File a Declaration of Candidacy for the General Election. [[§1-2220](#), *Idaho Code*]
- Aug. 7 Last Day for Single Countywide Highway District Candidates to File a Declaration of Candidacy for the General Election. [[§34-625](#) and [34-625A](#), *Idaho Code*]
- Aug. 12 Early Voting for the August Election Begins. [[§34-1012](#), *Idaho Code*]
- Aug. 13 Last Day for County Clerks to Mail August Election Ballots in Mail Ballot Precincts. [[§34-308](#), *Idaho Code*]
- Aug. 15 County Clerks to Publish the First Notice of the August Election. [[§34-602](#) and [34-1406](#), *Idaho Code*]
- Aug. 15 Last Day for Political Parties and Candidates to Request Polling Place Challengers & Watchers for the August Election. [[§34-304](#), *Idaho Code*]
- Aug. 16 Absentee Ballot Application Deadline. [[§34-1002\(7\)](#), *Idaho Code*]
- Aug. 16 - 23 County Clerks to Publish a Notice of the Candidate Filing Deadline for the General Election. [[§34-1405](#), *Idaho Code*]
- Aug. 22 Last Day for County Clerks to Publish the Second Notice of the August Election. [[§§34-602](#) and [34-1406](#), *Idaho Code*]
- Aug. 23 Early Voting for the August Election Ends. [[§34-1012](#), *Idaho Code*]
- Aug. 22 - 26 Registered Electors May Submit Emergency Situation Absentee Ballot Application. [[§34-1002A](#), *Idaho Code*]
- Aug. 27 AUGUST ELECTION DAY. [[§§34-211](#) and [34-1101](#), *Idaho Code*]
- Aug. 27 Absentee Ballot Return Deadline. [[§34-1005](#), *Idaho Code*]
- Aug. 28 Voter Registration Reopens. [[§34-408](#), *Idaho Code*]

2024 PRIMARY & GENERAL ELECTION CALENDAR

- Aug. 30 Last Day for Nonpartisan Candidate to File Declaration of Candidacy for the General Election. [§34-1404, Idaho Code]
- Aug. 30 Last Day for the State Chairman of Each Political Party to Certify the Names of the Presidential and Vice-Presidential Candidates for the General Election (unless the Secretary of State grants a five-day extension). [§34-711, Idaho Code]
- Aug. 30 Last Day to File a Petition to Create a New Political Party. [§34-501, Idaho Code]
- Sept. 6 County Clerks to Certify the August Election Results. [§34-1410, Idaho Code]
- Sept. 6 Last Day for Clerks of Political Subdivisions to Certify Nonpartisan Nominees for the General Election. [§34-1404(1), Idaho Code]
- Sept. 6 Last Day for County Commissioners to Canvass the August Election Results. [§34-1410, Idaho Code]
- Sept. 6 Last Day for the Secretary of State to Issue a Postelection Audit Directive for the General Election. [§34-1203A(2), Idaho Code]
- Sept. 6 Last Day for Secretary of State to Provide General Election Sample Ballot Layout. [§34-909(1), Idaho Code]
- Sept. 6 Last Day for Secretary of State to Certify Candidates for the General Election. [§34-909(3), Idaho Code]
- Sept. 6 Ballot Question Submission Deadline for the General Election. [§34-106(8), Idaho Code]
- Sept. 6 Last Day for Secretary of State to Certify a Proposed Constitution, Constitutional Amendment or Other Statewide Ballot Questions for the General Election. [§34-603, Idaho Code]
- Sept. 6 Last Day for Write-In Candidates to File a Declaration of Intent for the General Election. [§§34-1407 and 34-702A, Idaho Code]
- Sept. 6 Last Day for Partisan Candidates to Withdraw from the General Election. [§34-717, Idaho Code]
- Sept. 16 Last Day for County Clerks to Print Absentee Ballots for the General Election. [§34-1003, Idaho Code and Secretary of State Directive 2015-1]
- Sept. 20 Last Day for Nonpartisan Candidates to Withdraw from the General Election. [§34-1405A, Idaho Code]
- Sept. 20 Last Day for Political Parties to Supply Names of Absentee Ballot Delivery Witnesses for the General Election. [§34-1003(5), Idaho Code]
- Sept. 20 Last Day to Order a Recall Election to be Held in the General Election. [§34-106(9), Idaho Code]
- Sept. 20 Last Day for County Clerks to Mail Absentee Ballots for the General Election. [§34-1003(3), Idaho Code and Secretary of State Directive 2015-1]
- Sept. 20 Deadline for County Clerks to Submit a Modified Early Voting Ballot Security Plan for the General Election. [§34-1013, Idaho Code]
- Sept. 26 Last Day for County Clerks to Submit a Modified Voting Procedures Plan. [§34-1413, Idaho Code]
- Sept. 26 Last Day to Apply for a Recount of Ballots Cast for County or Municipal Office or County or Political Subdivision Ballot Measure in the August Election. [§34-2301, Idaho Code]
- Oct. 4 Deadline for Precinct Committeemen to Recommend and County Clerks to Appoint Election Judges. [§34-303, Idaho Code]
- Oct. 4 Last Day for County Commissioners to Designate Polling Places for the General Election. [§34-302, Idaho Code]
- Oct. 11 Preregistration Deadline for the General Election. [§34-408, Idaho Code]
- Oct. 15 County Clerks May Begin Mailing General Election Ballots in Mail Ballot Precincts. [§34-308, Idaho Code]
- Oct. 21 Early Voting for the General Election Begins. [§34-1012, Idaho Code]
- Oct. 22 Last Day for County Clerks to Mail General Election Ballots in Mail Ballot Precincts. [§34-308, Idaho Code]

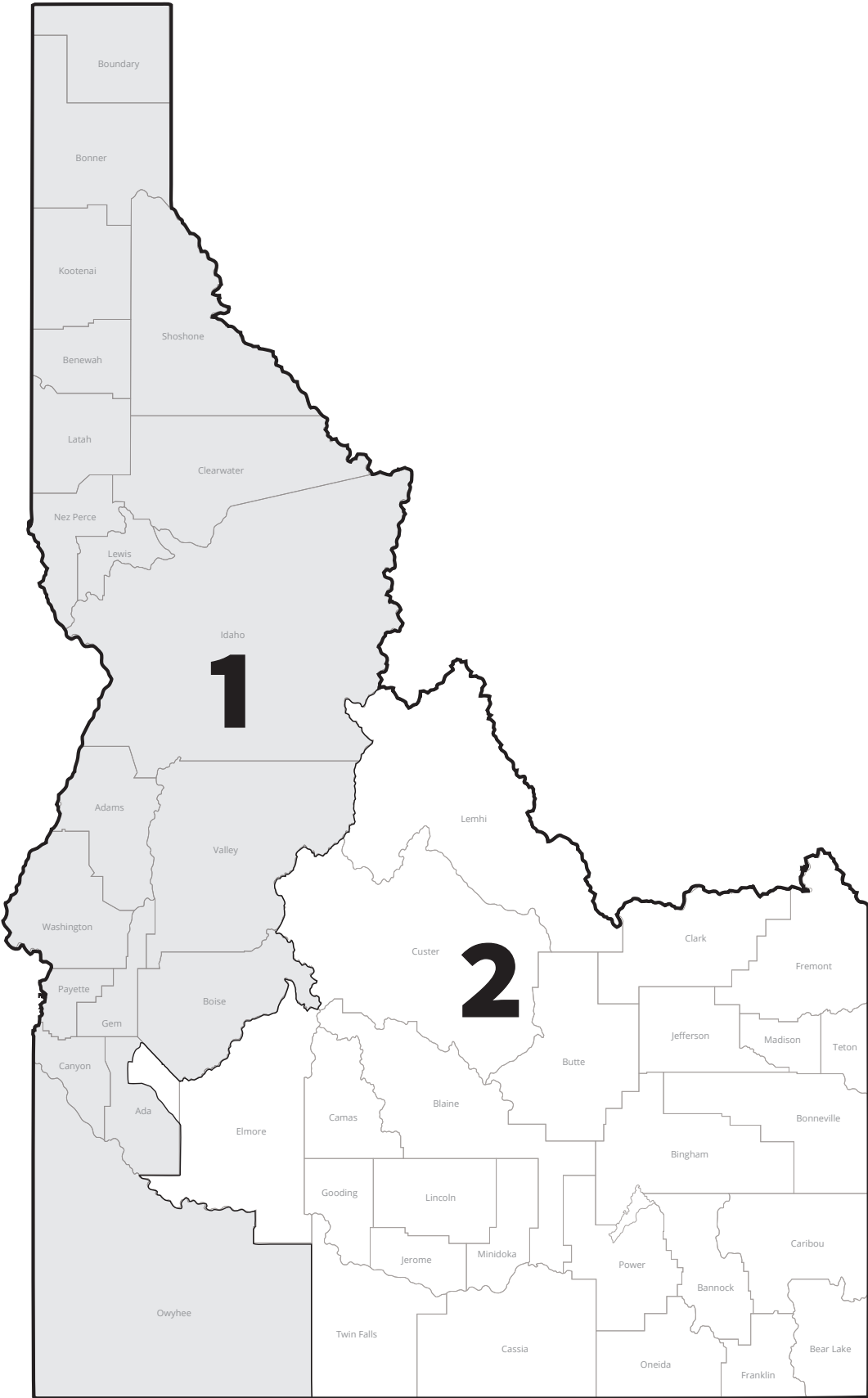
2024 PRIMARY & GENERAL ELECTION CALENDAR

- Oct. 24 County Clerks to Publish the First Notice of the General Election. [§§34-602 and 34-1406, *Idaho Code*]
- Oct. 24 Last Day for Political Parties and Candidates to Request Polling Place Challengers & Watchers for the General Election. [§34-304, *Idaho Code*]
- Oct. 25 Absentee Ballot Application Deadline. [§34-1002(7), *Idaho Code*]
- Oct. 25 Last Day for County Clerks to Examine Election Register and Note Challenges. [§34-432, *Idaho Code*]
- Oct. 31 Last Day for County Clerks to Publish the Second Notice of the General Election. [§§34-602 and 34-1406, *Idaho Code*]
- Oct 31 - Nov 4 Registered Electors May Submit Emergency Situation Absentee Ballot Application. [§34-1002A, *Idaho Code*]
- Nov. 1 Early Voting for the General Election Ends. [§34-1012, *Idaho Code*]
- Nov. 1 In-Person Absentee Application Deadline. [§§34-1002(7) and 34-1006, *Idaho Code*]
- Nov. 5 GENERAL ELECTION DAY. [§§34-101, 34-211, 34-601, and 34-1101, *Idaho Code*]
- Nov. 5 Absentee Ballot Return Deadline. [§34-1005, *Idaho Code*]
- Nov. 6 Voter Registration Reopens. [§34-408, *Idaho Code*]
- Nov. 15 Last Day for County Board of Canvassers to Canvass the General Election Returns and Make a Statement of Votes Cast. [§§34-1205 and 34-1206, *Idaho Code*]
- Nov. 15 County Clerks to Issue Certificates of Election for the General Election. [§34-1209, *Idaho Code*]
- Nov. 15 The Clerks of Political Subdivisions to Issue Certificates of Election for the General Election. [§34-1410, *Idaho Code*]
- Nov. 15 Secretary of State to Identify and Order a Postelection Audit of the General Election. [§34-1203A, *Idaho Code*]
- Nov. 20 Last Day for State Board Canvassers to Meet to Canvass Abstracts from the General Election. [§34-1211, *Idaho Code*]
- Nov. 20 Secretary of State to Issue Certificates of Election. [§34-1215, *Idaho Code*]
- Dec. 5* Last Day to Apply for a Recount of Ballots Cast for County or Municipal Office or County or Political Subdivision Ballot Measure in the General Election. *Date may vary-must be done within 20 days of official canvass. [§34-2301, *Idaho Code*]
- Dec. 10 Last Day to Apply for a Recount of Ballots Cast for Federal or State Office or Statewide Ballot Measure in the General Election. *Date may vary-must be done within 20 days of official canvass. [§34-2301, *Idaho Code*]
- Dec. 11 Last Day for Secretary of State to Deliver Presidential and Vice-Presidential Electors Certificates of Election. [§34-1501, *Idaho Code*]
- Dec. 17* Meeting of the Electors chosen to Elect a President and Vice-President. *Date directed by Congress. [§34-1503, *Idaho Code*]
- Dec. 2024 County Clerks to Publish the 2025 Election Calendar. [§34-1405, *Idaho Code*]

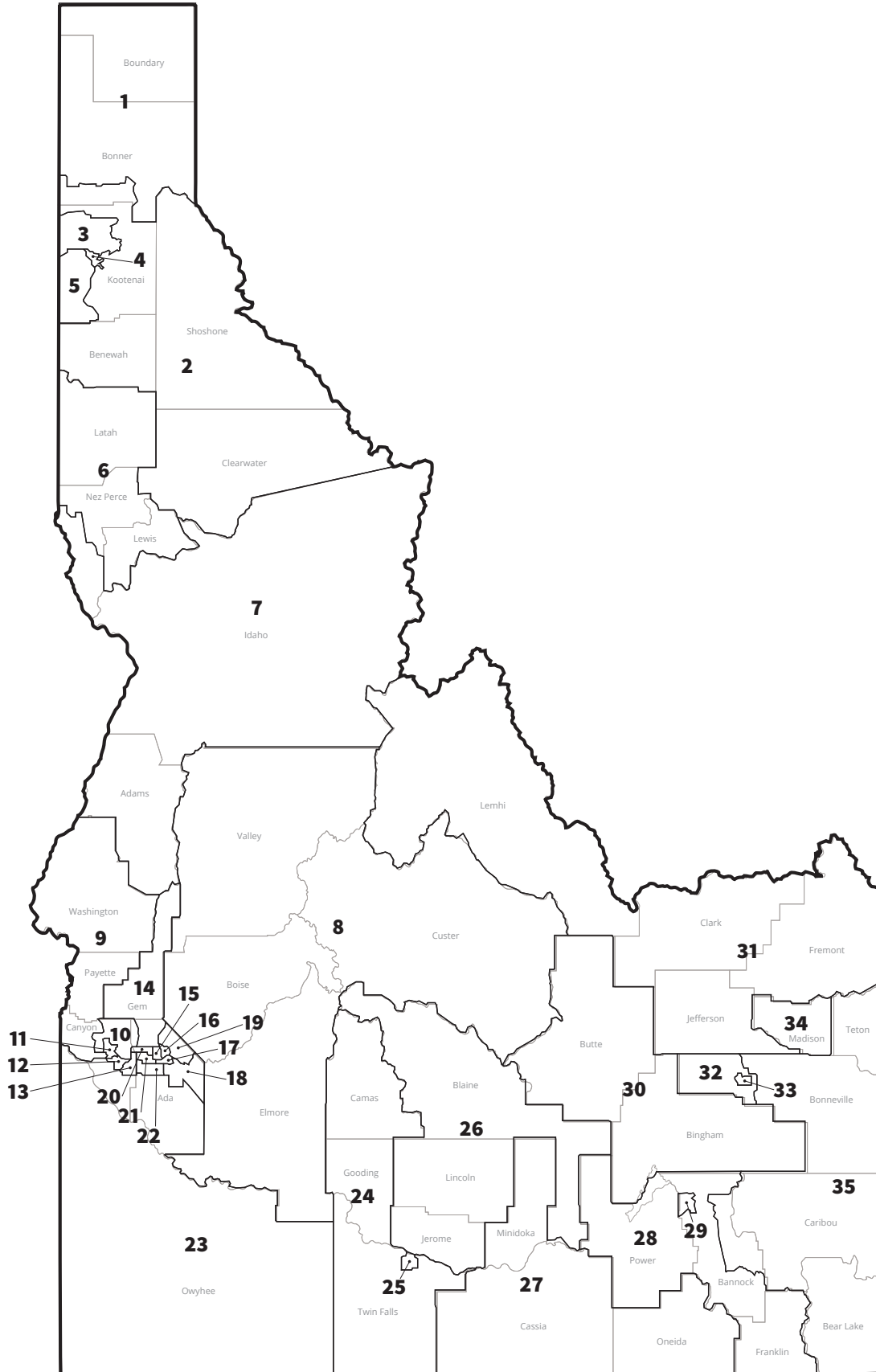
Idaho Counties

County	County Seat	Zip Code	Phone
Ada	Boise	83704-0000	287-6860
Adams	Council	83612-0048	253-4561
Bannock	Pocatello	83205-0000	236-7333
Bear Lake	Paris	83261-0190	945-2155
Benewah	St. Maries	83861-1852	245-3212
Bingham	Blackfoot	83221-1776	782-3164
Blaine	Hailey	83333-8429	788-5510
Boise	Idaho City	83631-1300	392-4431
Bonner	Sandpoint	83864-1794	255-3631
Bonneville	Idaho Falls	83402-3582	529-1363
Boundary	Bonnors Ferry	83805-0419	267-2242
Butte	Arco	83213-0737	527-3021
Camas	Fairfield	83327-0430	764-2242
Canyon	Caldwell	83605-3522	454-7337
Caribou	Soda Springs	83276-0775	547-4324
Cassia	Burley	83318-1862	878-5240
Clark	Dubois	83423-0205	374-5304
Clearwater	Orofino	83544-0586	476-5615
Custer	Challis	83226-0385	879-2360
Elmore	Mountain Home	83647-3000	587-2130
Franklin	Preston	83263-1232	852-1090
Fremont	St. Anthony	83445-1548	624-7332
Gem	Emmett	83617-3096	365-4561
Gooding	Gooding	83330-0417	934-4841
Idaho	Grangeville	83530-1948	983-2751
Jefferson	Rigby	83442-0000	745-7756
Jerome	Jerome	83338-2344	644-2714
Kootenai	Coeur d'Alene	83816-9000	446-1030
Latah	Moscow	83843-0568	883-2249
Lemhi	Salmon	83467-3900	742-1667
Lewis	Nezperce	83543-5065	937-2661
Lincoln	Shoshone	83352-5364	886-7641
Madison	Rexburg	83440-0389	359-6244
Minidoka	Rupert	83350-0368	436-9511
Nez Perce	Lewiston	83501-0896	799-3020
Oneida	Malad	83252-1200	766-4116
Owyhee	Murphy	83650-0128	495-2421
Payette	Payette	83661-2473	642-6000
Power	American Falls	83211-1200	226-7611
Shoshone	Wallace	83873-2348	752-1264
Teton	Driggs	83422-0000	354-8780
Twin Falls	Twin Falls	83301-0126	736-4004
Valley	Cascade	83611-1350	382-7100
Washington	Weiser	83672-0670	414-2092

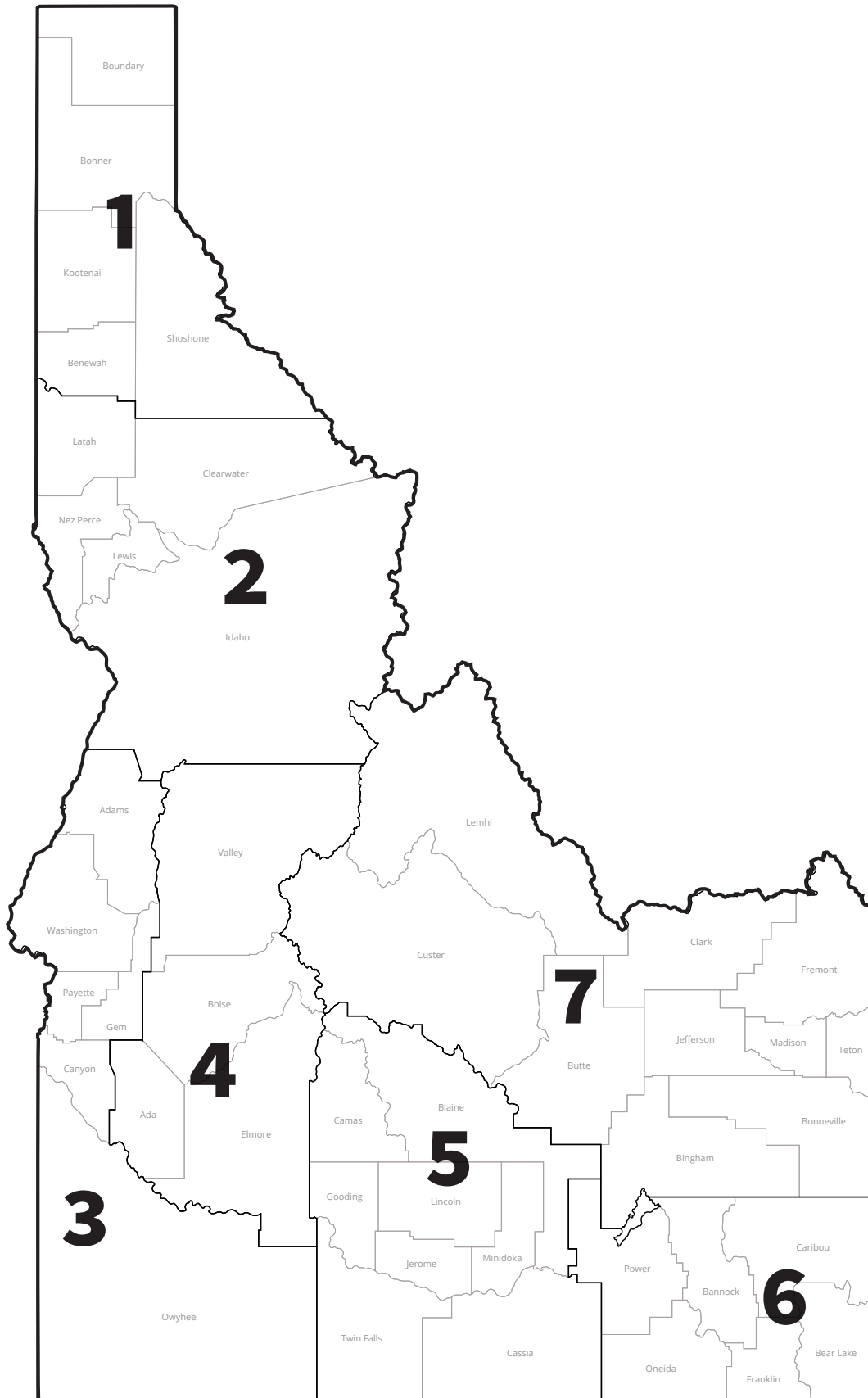
Congressional Districts (2022)



Legislative Districts (2022)



Judicial Districts (2022)



Title 34
Elections

Title 34: Elections

Chapter 1: Definitions

34-101. “GENERAL ELECTION” DEFINED—OFFICES TO BE FILLED—CONSTITUTIONAL AMENDMENTS. “General election” means the national, state and county election held on the first Tuesday succeeding the first Monday of November in each even-numbered year.

At these elections there shall be chosen all congressional, state and county officers, including electors of president and vice-president of the United States, as are by law to be elected in such years.

All amendments to the Idaho constitution shall be submitted to the voters for their approval at these elections.

History: [S.L. 1970, ch. 140; am. 1971, ch. 194]

34-102. “PRIMARY ELECTION” DEFINED—PURPOSES. “Primary election” means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties. Primary elections shall be held on the third Tuesday of May in each even-numbered year.

History: [S.L. 1970, ch. 140; am. 1971, ch. 194; am. 1975, ch. 174; am. 1979, ch. 309; am. 2011, ch. 11; am. 2012, ch. 33; am. 2015, ch. 292; am. 2023, ch. 208]

34-103. “SPECIAL ELECTION” DEFINED. “Special election” means any election other than a general or primary election held at any time for any purpose provided by law.

History: [S.L. 1970, ch. 140; am. 1971, ch. 194]

34-104. “QUALIFIED ELECTOR” DEFINED. “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.

History: [S.L. 1970, ch. 140; am. 1971, ch. 194; am. 1972, ch. 350; am. 1973, ch. 304; am. 1982, ch. 253]

34-105. “REGISTERED ELECTOR” DEFINED. “Registered elector,” for the purpose of this act, means any “qualified elector.”

History: [S.L. 1970, ch. 140; am. 1971, ch. 194]

34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section or section [34-220](#), *Idaho Code*, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor’s proclamation.

(1) 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 and subsection (7) of this section, an emergency election may be called upon motion of the governing board of a political subdivision. An emergency exists when there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic, or other disaster, or when it is necessary to do emergency work to prepare for national or local defense or to safeguard life, health or property.

(2) Candidates for office elected in May shall take office on the date specified in the certificate of election but not more than sixty (60) days following the election.

(3) Candidates for office elected in November shall take office as provided in the constitution or on January 1 next succeeding the November election.

(4) The governing board of each political subdivision subject to the provisions of this section that, prior to January 1, 2011, conducted an election for members of that governing board on a date other than a date permitted in subsection (1) of this section shall establish as the election date for that political subdivision the date authorized in subsection (1) of this section that falls nearest the date on which elections were previously conducted, unless another date is established by law.

(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 election authorized under the provisions of this section.

(6) Water districts governed by [chapter 6](#), [title 42](#), *Idaho Code*, are exempt from the provisions of this section.

(7) Community colleges governed by [chapter 21](#), [title 33](#), *Idaho Code*, and school districts are subject to the limitations specified in subsection (1) of this section, except that school districts may also hold an election on the last Tuesday in August of each year on bonded indebtedness and property tax levy questions.

IDAHO ELECTION LAWS

(8) A city initiative or referendum election shall be held on the Tuesday following the first Monday in November of odd-numbered years. A county initiative or referendum election or a bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section that falls more than sixty (60) days after the clerk of the political subdivision orders that such election shall be held in May or November of even-numbered years or more than fifty (50) days after the order for all other elections, unless otherwise provided by law. Ballot language for any question to be placed on the ballot shall be submitted to the county clerk at least sixty (60) days before an election held in May or November of even-numbered years and at least fifty (50) days before all other elections.

(9) Recall elections may be held on any of the three (3) dates authorized in subsections (1) and (7) of this section that fall more than forty-five (45) days after the clerk of the political subdivision orders that such election shall be held.

(10) Irrigation districts governed by title 43, Idaho Code, are subject to the limitations specified in subsection (1) of this section, except that irrigation districts may also hold an election on the first Tuesday in February of each year and on the first Tuesday in August of each year on questions required to be voted upon by title 43, Idaho Code.

History: [S.L. 1992, ch. 176; am. 1993, ch. 313; am. 2007, ch. 92; am. 2009, ch. 341; am. 2010, ch. 185; am. 2011, ch. 11; am. 2013, ch. 135; am. 2015, ch. 285; am. 2015, ch. 292; am. 2018, ch. 238; am. 2022, ch. 73; am. 2023, chs. 200, 208, 218]

34-106A. [REPEALED: AM. 1972, ch. 350]

34-107. “RESIDENCE” DEFINED. (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.

(2) If a person claims an exemption under section 63-602G, Idaho Code, then the homestead for which the exemption is claimed shall be the person’s residence for voting purposes. If no such exemption is claimed, then in determining the 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.

(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.

(4) A qualified elector shall not be considered to have gained a residence in any county or 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.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

History: [S.L. 1970, ch. 140; am. 1971, ch. 194; am. 1982, ch. 215; am. 1989, ch. 147; am. 1996, ch. 322; am. 2022, ch. 81]

34-108. “ELECTION OFFICIAL” DEFINED. “Election official” means the secretary of state, any county clerk, registrar, judge of election, clerk of election, canvassing board or board of county commissioners engaged in the performance of election duties as required by law.

History: [S.L. 1970, ch. 140; am. 1971, ch. 194]

34-109. “POLITICAL PARTY” DEFINED. “Political party” means an affiliation of electors representing a political group under a given name as authorized by law.

History: [S.L. 1970, ch. 140]

34-110. “ELECTION REGISTER” DEFINED. “Election register” means the voter registration cards of all electors who are qualified to appear and vote at the designated polling places.

History: [S.L. 1970, ch. 140]

34-111. “COMBINATION ELECTION RECORD AND POLL BOOK” DEFINED—OPERATION. (1) “Combination election record and poll book” means the book containing a listing of registered electors who are qualified to appear and vote at the designated polling places. An additional copy of the combination election record and poll book may be maintained to record that the elector has voted.

IDAHO ELECTION LAWS

(2) The county clerk shall deliver to the chief election judge in each precinct, as other election supplies and materials are delivered, a list in alphabetical order of all registered electors referred to in section 34-110, *Idaho Code*. This list shall constitute the combination election record and poll book of each precinct. This list shall include the residence address of each elector. For any given precinct, the list may be divided into two (2) or more separate parts and shall be alphabetical according to the name of the registered elector.

(3) The county clerk shall administer an oath of office to the chief judge of each precinct, before or upon delivering supplies. The county clerk may delegate his authority to administer oath of the chief judge to any officer authorized to administer oaths, including notaries public.

(4) Before entering upon the discharge of their duties, the election judges shall take and subscribe an oath in the combination election record and poll book. Such oaths shall be administered by the chief judge of the precinct. Should the chief judge fail to be present any officer authorized to administer oaths including notaries public may administer oaths to the election judges. Blank oaths of office shall be attached to the combination election record and poll book.

(5) The combination election record and poll book shall be in the manner and form prescribed by the secretary of state.

(6) Immediately after the close of the polls, the names of the electors who voted shall be counted and the number written and certified in the combination election record and poll book. The combination election record and poll book shall be immediately signed by each of the election board judges.

History: [S.L. 1970, ch. 140; am. 1972, ch. 350; am. 1982, ch. 137]

34-111A. “ELECTRONIC POLL BOOK” DEFINED. “**Electronic poll book**” means an electronic list of registered voters for a particular precinct or polling location that may be transported to the polling location. The electronic poll book shall contain the same information as the combination election record and poll book as defined in this chapter.

History: [S.L. 2015, ch. 282]

34-112. “COUNTY CLERK” DEFINED. “**County clerk**” means the clerk of the district court.

History: [S.L. 1970, ch. 140]

34-113. “CANDIDATE” DEFINED. “**Candidate**” means and includes every person for whom it is contemplated or desired that votes be cast at any political convention, primary, general or special election, and who either tacitly or expressly consents to be so considered, except candidates for president and vice-president of the United States.

History: [S.L. 1970, ch. 140]

34-114. “TALLY BOOK” OR “TALLY LIST” DEFINED. “**Tally book**” or “**tally list**” means the forms in which the votes cast for any candidate or special question are counted and totaled at the polling precinct.

History: [S.L. 1970, ch. 140]

34-115. REFERENCES TO MALE INCLUDE FEMALE AND MASCULINE INCLUDES FEMININE. All references to the male elector includes [include] the female elector and the masculine pronoun includes the feminine.

History: [S.L. 1970, ch. 140]

34-116. CALENDAR DAYS USED IN COMPUTATION OF TIME. Calendar days shall be used in all computations of time made under the provisions of this act. 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. Sundays, Saturdays, and legal holidays shall be included. But, if the time for any act to be done shall fall on Sunday, Saturday, or a legal holiday, such act shall be done upon the day following such Sunday, Saturday, or legal holiday.

History: [S.L. 1970, ch. 140; am. 1995, ch. 215]

34-117. “JUDICIAL NOMINATING ELECTION” DEFINED. “**Judicial nominating election**” means an election held for the purpose of selecting justices of the supreme court and judges of the district court as are by law to be selected at such election. This election shall be held on the date of the statewide primary election.

History: [S.L. 1971, ch. 194]

IDAHO ELECTION LAWS

Chapter 2: Duties of Officers

34-201. SECRETARY OF STATE CHIEF ELECTION OFFICER. The secretary of state is the chief election officer of this state, and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws.

The secretary of state is responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed service voters and overseas voters with respect to elections for federal office as required by section 102 of the uniformed and overseas citizens absentee voting act. (42 U.S.C. section 1973 et. seq.)

If a national or local emergency or other situation arises which make substantial compliance with the provisions of the uniformed and overseas citizens absentee voting act impossible or unreasonable, such as a natural disaster or an armed conflict involving United States armed forces, mobilization of those forces, including state national guard and reserve components of this state, the secretary of state may prescribe, by directive, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in this state.

History: [S.L. 1970, ch. 140; am. 2003, ch. 48]

34-202. SECRETARY OF STATE TO DISTRIBUTE COMPREHENSIVE DIRECTIVES AND INSTRUCTIONS RELATING TO ELECTION LAWS TO ALL COUNTY CLERKS. In carrying out his responsibility under section 34-201, *Idaho Code*, the secretary of state shall cause to be prepared and distributed to each county clerk detailed and comprehensive written directives and instructions relating to and based upon the election laws as they apply to elections, registration of electors and voting procedures which by law are under the direction and control of the county clerk. Such directives and instructions shall include sample forms of ballots, papers, documents, records and other materials and supplies required by such election laws. The secretary of state shall develop and provide to each county clerk instructions and standards for the verification, acceptance, and rejection of elector signatures for any process requiring signature verification. The secretary of state shall prescribe a form for voter registration cards based on the voter registration laws and, from time to time, shall cause to be prepared and distributed to each county clerk such written corrections of such directives and instructions and of the form for registration cards as are necessary to maintain uniformity in the application, operation and interpretation of and to reflect changes in the election laws. Each county clerk affected thereby shall comply with such directives and instruction, and corrections thereof, and shall provide voter registration cards prepared in accordance with the prescribed form.

History: [S.L. 1970, ch. 140; am. 2021, ch. 262]

34-203. ASSISTANCE AND ADVICE TO COUNTY CLERKS. In carrying out his responsibility under section 17 [34-201, *Idaho Code*], the secretary of state shall assist and advise each county clerk with regard to the application, operation and interpretation of the election laws as they apply to elections, registration of electors and voting procedures which by laws are under the direction and control of the county clerk.

History: [S.L. 1970, ch. 140]

34-204. CONFERENCES WITH COUNTY CLERKS ON ADMINISTRATION OF ELECTION LAWS. In carrying out his responsibility under section 34-201, *Idaho Code*, the secretary of state shall cause to be organized and conducted at convenient places and times in this state at least three (3) conferences on the administration of the election laws. The secretary of state shall cause written notice of the place and time of each conference to be given to each county clerk. Each county clerk or his designated deputy shall attend at least one (1) of the conferences and shall comply with the instructions given under the authority of the secretary of state at each conference such county clerk attends.

History: [S.L. 1970, ch. 140; am. 2015, ch. 292]

34-205. DUTIES OF SECRETARY OF STATE RELATING TO ELECTION LAWS. The secretary of state shall:

(1) Prepare and cause to be printed, in appropriate and convenient form, periodic compilations and digests of the election laws.

(2) Distribute in appropriate quantities to the county clerks for use by such county clerks and by election boards, copies of such compilations and digests and the sample form of such supplies and materials necessary to conduct elections as the secretary of state considers appropriate, including poll books, tally sheets, return sheets and abstract of vote sheets.

(3) Make such compilations and digests available for distribution, free or at cost, to interested persons.

History: [S.L. 1970, ch. 140]

IDAHO ELECTION LAWS

34-206. GENERAL SUPERVISION OF ADMINISTRATION OF ELECTION LAWS BY COUNTY CLERKS. Subject to and in accordance with the directives and instructions prepared and distributed or given under the authority of the secretary of state, each county clerk shall exercise general supervision of the administration of the election laws by each local election official in his county for the purpose of achieving and maintaining a maximum degree of correctness, impartiality, efficiency and uniformity in such administration by local election officials. Such directives and instructions shall be directed to and shall be complied with by each local election official affected thereby.

History: [S.L. 1970, ch. 140; am. 1971, ch. 69]

34-207. [REPEALED: AM. 1971, ch. 69]

34-208. DUTIES OF COUNTY CLERKS RELATING TO SUPERVISION OF ELECTION LAWS. In carrying out his exercise of general supervision under section 34-206, each county clerk shall:

(1) Require that each local election official shall use such ballots, papers, documents, records and other materials and supplies as directed by the secretary of state.

(2) Require each local election official in his county to submit reports pertaining to the administration of the election laws by such local election official. Each local election official shall comply with any such requirement.

(3) Inspect and observe the administration of the election laws by any local election official in his county at any time he deems necessary.

(4) Carry on a program of in-service training for local election officials in his county by periodically distributing to them such bulletins, manuals and other informational instructional materials and by establishing and conducting such classes of instruction pertaining to the administration of the election laws by local election officials as the county clerk considers desirable.

History: [S.L. 1970, ch. 140; am. 1971, ch. 69]

34-209. POWERS OF COUNTY CLERKS. (1) The county clerk may employ such personnel and procure such equipment, supplies, materials, books, papers, records and facilities of every kind as he considers necessary to facilitate and assist in carrying out his functions in connection with administering the election laws; except that procurement of voting machines or vote tally systems shall be conducted in accordance with the provisions of section 34-2405, *Idaho Code*.

(2) The necessary expenses incurred by the county clerk in administering the election laws, including reasonable rental for polling places, shall be allowed by the board of commissioners and paid out of the county treasury.

(3) The county clerk and his deputies may administer oaths and affirmations in connection with the performance of their functions in administering the election laws.

History: [S.L. 1970, ch. 140; am. 1972, ch. 131]

34-210. PREPARATION OF BALLOTS, PAPERS, DOCUMENTS, RECORDS, AND OTHER MATERIALS AND SUPPLIES REQUIRED. Subject to any applicable election law, the county clerk may devise, prepare and use in his administration of the election laws the ballots, papers, documents, records and other materials and supplies required or permitted by the election laws or otherwise necessary in such administration by such county clerk.

History: [S.L. 1970, ch. 140]

34-211. OFFICE OF COUNTY CLERK OPEN AS LONG AS POLLS ARE OPEN. On the day of any general, special or primary election held throughout the county, the county clerk shall keep his office open for the transaction of business pertaining to the election from the time the polls are opened in the morning continuously until the polls are closed.

History: [S.L. 1970, ch. 140]

34-212. REPORTS TO PROSECUTING ATTORNEY OF NONCOMPLIANCE WITH ELECTION LAWS BY COUNTY CLERK. (1) Any person having knowledge of any failure of a county clerk to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state may notify the prosecuting attorney of the county. Upon receipt of such notification the prosecuting attorney shall proceed immediately to investigate the alleged failure of the county clerk to comply. Upon the conclusion of the investigation the prosecuting attorney shall advise and direct the county clerk with regard to how he must proceed in connection with the matter. The county clerk shall proceed immediately to comply with the directive of the prosecuting attorney.

(2) If the prosecuting attorney, upon the conclusion of an investigation under subsection (1) of this section, determines that the county clerk has failed to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state, and that such failure to comply involves a violation by the county clerk of any statute, the violation of which is punishable by a criminal penalty or forfeiture of office, the prosecuting attorney shall promptly proceed to prosecute such violation by the county clerk.

IDAHO ELECTION LAWS

(3) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against a county clerk who fails to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state, or who violates any statute.

History: [S.L. 1970, ch. 140]

34-213. MANDAMUS TO ENFORCE COMPLIANCE BY COUNTY CLERK. (1) Whenever it appears to the secretary of state that a county clerk has failed to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state, the secretary of state may apply to the appropriate district court or a judge thereof for a writ of mandamus to compel the county clerk to comply with such directive or instruction. In any such mandamus proceeding it is a defense that the directive or instruction in question is unlawful.

(2) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against a county clerk who fails to comply with a lawful directive or instruction prepared and distributed or given under the authority of the secretary of state.

History: [S.L. 1970, ch. 140]

34-214. NONCOMPLIANCE BY LOCAL COUNTY ELECTION OFFICIALS—ENFORCEMENT BY COUNTY CLERK.

(1) Whenever it appears to a county clerk that any local election official in his county has failed to comply with any election law or any directive or instruction prepared and issued by the county clerk, the county clerk may issue an order to such local election official. The order shall specify in what manner the local election official has failed to comply, indicate the proper manner of compliance and direct the local election official to so comply with such law or directive or instruction within a designated reasonable time.

(2) If the local election official fails to comply as directed by the order of the county clerk, the county clerk may apply to a judge of the district court for the county in which the county clerk holds office for an order, returnable within five (5) days from the date thereof, to compel the local election official to comply with the order of the county clerk or to show cause why he should not be so compelled. Upon receipt of the application of the county clerk the judge shall issue the appropriate order, which shall be final. The judge shall dispose of the matter as soon as possible and not more than ten (10) days after his order is returned by the local election official.

(3) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against the noncomplying local election official.

History: [S.L. 1970, ch. 140]

34-215. APPEALS BY AGGRIEVED PERSONS. (1) Any person adversely affected by any act or failure to act by the secretary of state or a county clerk under any election law, or by any order, rule, regulation, directive or instruction made under the authority of the secretary of state or of a county clerk under any election law, may appeal therefrom to the district court for the county in which the act or failure to act occurred or in which the order, rule, regulation, directive or instruction was made or in which such person resides.

(2) Any party to the appeal proceedings in the district court under subsection (1) of this section may appeal from the decision of the district court to the supreme court.

(3) The district courts and supreme court, in their discretion, may give such precedence on their dockets to appeals under this section as the circumstances may require.

(4) The remedy provided in this section is cumulative and does not exclude any other remedy provided by law against any act or failure to act by the secretary of state or a county clerk under any election law or against any order, rule, regulation, directive or instruction made under the authority of the secretary of state or a county clerk under any election law.

History: [S.L. 1970, ch. 140]

34-216. GRIEVANCE PROCEDURES. The secretary of state shall promulgate rules in compliance with [chapter 52, title 67, Idaho Code](#), establishing state-based administrative complaint procedure as required by the Help America Vote Act. (P.L. 107-252)

History: [S.L. 2003, ch. 48]

34-217. RETENTION OF COUNTY ELECTION RECORDS. County election records shall be maintained by the county clerk for the time periods outlined in this section. Records shall be maintained for the period specified beginning with the date the record is created or has become no longer valid, whichever is greater.

(1) The following records shall be retained for not less than five (5) years:

- (a) Voter registration cards for electors whose registration has been terminated;
- (b) Correspondence relating to an elector's voter registration;

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- (c) Combination election record and poll book, including the ballot accounting page;
 - (d) Declaration of candidacy and petition of candidacy forms filed with the county clerk;
 - (e) Maps of precinct boundaries with legal descriptions;
 - (f) List of absentee voters; and
 - (g) County initiatives and petitions that qualify for placement on the ballot.
- (2) The following shall be retained for two (2) years:
- (a) Completed absentee ballot request forms;
 - (b) Tally books;
 - (c) Voted ballots;
 - (d) Any ballots that were required to be duplicated before being counted;
 - (e) Certified lists of candidates or declaration of candidacy forms from special districts used for ballot preparation;
 - (f) Certified ballot language from special districts for any question placed on the ballot; and
 - (g) Absentee ballot affidavit envelopes, including the indication of the signature's acceptance or rejection.
- (3) The following shall be maintained for one (1) year:
- (a) Notice of election;
 - (b) Personal identification affidavit;
 - (c) Ballot tracking logs;
 - (d) Automated tabulation election logs;
 - (e) Copy of the election definition and program used in tabulating ballots electronically and in the ballot marking device; and
 - (f) Record of the number of ballots printed and furnished to each polling place.
- (4) Other election supplies including, but not limited to, unused ballots, official election ballot identification or official ballot stamps, receipts for supplies, and spoiled ballots, may be disposed of sixty (60) days following the deadline for requesting a recount or filing an election contest pursuant to chapters 20 and 21, title 34, Idaho Code.

History: [S.L. 2011, ch. 285; am. 2012, ch. 211; am. 2013, ch. 285; am. 2018, ch. 78; am. 2021, ch. 262]

34-218. ELECTION ADMINISTRATION—PRIVATE MONEYS PROHIBITED. Elections held in this state must be funded only by lawful appropriations from the government of the United States, the state of Idaho, or other local governments, including counties, cities, and special taxing districts. No official or employee of the state of Idaho, county clerk, local elections office, or other local governing body administering or conducting an election may accept or expend moneys in any amount or accept any items or goods with a total value in excess of one hundred dollars (\$100) from any private persons, corporations, organizations, business entities, political parties, or any other private entity. This section does not apply to the collection of fees authorized by law or to the donation of a facility or space for the use of election officials in holding an election.

History: [S.L. 2021, ch. 275; am. 2023, ch. 20]

34-219. INVESTIGATION OF CANDIDATE QUALIFICATIONS. (1) Upon the request of a registered voter, the secretary of state or a county clerk shall investigate the legal qualifications of a candidate for office and shall exclude from the ballot a candidate who fails to satisfy the legal qualifications for the office being sought. A person excluded from the ballot pursuant to this subsection may challenge such exclusion in the district court in which the person's residence for voting purposes is located.

(2) The secretary of state or a county clerk may establish a deadline by which a request made pursuant to subsection (1) of this section must be filed, which deadline shall not be earlier than fourteen (14) days following the deadline to file a declaration of candidacy pursuant to section 34-704, Idaho Code.

(3) Upon the request of the secretary of state or a county clerk, the state or a political subdivision shall provide information within the state's or the political subdivision's possession that is needed to ascertain the legal qualifications of a candidate for office.

History: [S.L. 2022, ch. 81; am. 2023, ch. 218]

34-220. JUDICIAL REVIEW — ELECTION RESULTS. (1) If the vote count in an election has been completed and it appears to the secretary of state or a county clerk that an error has occurred in the administration of such election that may be sufficient to change the result of the election, then the secretary of state or clerk of the county in which such error appears to have occurred may petition the district court of the county in which the error appears to have occurred for judicial review of the election. The petition shall be filed within twenty-eight (28) days of the date of the election.

(2) The secretary of state or the county clerk initiating a petition under this section shall serve notice of the petition on:

- (a) Any candidate appearing on the ballot in such election; and

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(b) Any taxing district or other party responsible for placing an initiative, a referendum, or another question on the ballot in such election.

(3) The district court may:

(a) Give such precedence on its docket to a petition under this section as the circumstances may require; and

(b) Consider any evidence related to the error alleged in the petition.

(4) The scope of the district court's review shall be limited to whether the error alleged in the petition occurred and, if so, whether the error was sufficient to change the result of the election. If the court determines that the error was sufficient to change the result of the election, then the court shall declare the election void and order a new election to be held at the expense of the agency where the error occurred. The new election shall be held as soon as practicable and need not occur on a date provided in section ~~34-106~~, *Idaho Code*.

(5) Court proceedings held pursuant to this section shall be conducted according to the Idaho rules of civil procedure, as applicable, and any other rules deemed pertinent by the district court.

History: [S.L. 2022, ch. 73; am. 2023, ch. 218]

Chapter 3: Election Precincts and Judges

34-301. ESTABLISHMENT OF ELECTION PRECINCTS BY COUNTY COMMISSIONERS — LISTS AND MAPS TO BE FURNISHED TO SECRETARY OF STATE. (1) The board of county commissioners in each county shall establish a convenient number of election precincts therein. The board of county commissioners may establish an absentee voting precinct for each legislative district within the county. The boundaries of such absentee precincts shall be the same as those of the legislative districts for which they were established. The board shall have the authority to create new or consolidate established precincts only within the boundaries of legislative districts. No county shall have less than two (2) precincts. This board action shall be done no later than January 15 in a general election year. The January 15 deadline shall be waived during a general election year in which a legislative or court-ordered redistricting plan is adopted. In such cases, any precinct boundary adjustments shall be accomplished by the county commissioners as soon as is practicable.

(2) The county clerk of each county shall provide, and the secretary of state shall maintain in his office, a current and accurate report of the following:

(a) A list of all precincts within the county;

(b) A map and description of all precincts within the county;

(c) A count of voters registered for the latest general election, by precinct; and

(d) A count of votes cast at the latest general election, by precinct.

History: [S.L. 1970, ch. 140; am. 1971, ch. 210; am. 1972, ch. 141; am. 1973, ch. 177; am. 1974, ch. 212; am. 1976, ch. 73; am. 1977, ch. 8; am. 1992, ch. 152; am. 2009, ch. 52; am. 2019, ch. 96]

34-302. DESIGNATION OF PRECINCT POLLING PLACES. The board shall, by the fifth Friday before any election, designate a suitable polling place for each election precinct. Insofar as possible, the board shall designate the same polling place for the general election that it designated for the primary election. The physical arrangements of the polling place shall be sufficient to guarantee all voters the right to cast a secret ballot. Public school facilities shall be made available to the board as precinct polling places. All polling places designated as provided herein shall conform to the accessibility standards adopted by the secretary of state pursuant to the voting accessibility for the elderly and handicapped act, 52 U.S.C. 20101 et seq. The expense of providing such polling places shall be a public charge and paid out of the county treasury

History: [S.L. 1970, ch. 140; am. 1973, ch. 304; am. 1978, ch. 38; am. 1985, ch. 115; am. 2019, ch. 96; am. 2019, ch. 283]

34-303. APPOINTMENT OF ELECTION JUDGES BY COUNTY CLERK. (1) The county clerk shall appoint two (2) or more election judges, one (1) of whom shall be designated chief judge, and the number of clerks deemed necessary by him for each polling place. In the event a single polling place is designated for two (2) or more precincts, an individual may serve simultaneously on the election board for two (2) or more precincts thus served by a single polling place. The precinct committeemen shall recommend persons for the position in their respective precincts to the county clerk in writing by the fifth Friday prior to the primary election and the county clerk shall appoint the judges from such lists if the persons recommended are qualified.

(2) The chief election judge shall be responsible for the conduct of the proceedings in the polling place. Compensation for all election personnel shall be determined by the board of county commissioners at no less than the minimum wage as prescribed by the laws of the state of Idaho.

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(3) Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to the county clerk by the precinct committeemen of the precincts by the prescribed deadline.

(4) In order to provide for a greater awareness of the election process, the rights and responsibilities of voters and the importance of participating in the electoral process, as well as to provide additional members of precinct boards, a county clerk may appoint not more than two (2) students per precinct to serve under the direct supervision of election board members designated by the county clerk. A student may be appointed, notwithstanding lack of eligibility to vote, if the student possesses the following qualifications:

(a) Is at least sixteen (16) years of age at the time of the election for which he or she is serving as a member of an election board; and

(b) Is a citizen of the United States.

History: [34-303, added 1970, ch. 140, sec. 34, p. 351; am. 1971, ch. 210, sec. 2, p. 919; am. 1977, ch. 8, sec. 4, p. 17; am. 2003, ch. 48, sec. 3, p. 182; am. 2004, ch. 113, sec. 1, p. 386; am. 2018, ch. 154, sec. 1, p. 311; am. 2019, ch. 96, sec. 3, p. 345]

34-304. CHALLENGERS—WATCHERS. The county clerk shall, upon receipt of a written request, such request to be received no later than twelve (12) days prior to the day of election, direct that the election judges permit one (1) person authorized by each political party, if the election is a partisan election, to be at the polling place for the purpose of challenging voters, and shall, if requested, permit any one (1) person authorized by a candidate, several candidates or political party, to be present to serve as a watcher to observe the conduct of the election. Such authorization shall be evidenced by a writing signed by the county chairman and secretary of the political party, if the election is a partisan election, or by the candidate or candidates, and filed with the county clerk. Where the issue before the electors is other than the election of officers, the clerk shall, upon receipt of a written request, such request to be received no later than twelve (12) days prior to the date of voting on the issue or issues, direct that the election judges permit one (1) pro and one (1) con person to be at the polling place for the purpose of challenging voters and to observe the conduct of the election. Such authorization shall be evidenced in writing signed by the requesting person and shall state which position relative to the issue or issues the person represents. Persons who are authorized to serve as challengers or watchers shall wear a visible name tag which includes their respective titles. A watcher is entitled to observe any activity conducted at the location at which the watcher is serving, provided however, that the watcher does not interfere with the orderly conduct of the election. If the watchers are present at the polling place when ballots are counted they shall not absent themselves until the polls are closed. A watcher serving at the central counting station may be present at any time the station is open for the purpose of processing or preparing to process election results and until the election officers complete their duties at the station. If the county clerk does not receive the list of names of those desired to be present for the purpose of either poll watching or challenging within the time prescribed above, the clerk shall not allow the presence of such persons later seeking to serve in those capacities.

History: [S.L. 1970, ch. 140; am. 1972, ch. 141; am. 1973, ch. 304; am. 2006, ch. 70; am. 2009, ch. 341]

34-305. COUNTY CLERK CHIEF COUNTY ELECTIONS OFFICER. The county clerk is the chief elections officer of his county and it is his responsibility to obtain and maintain uniformity in the application, operation and interpretation of the election laws. The county clerk shall comply with the lawful directives and instructions given him by the secretary of state.

History: [S.L. 1971, ch. 210]

34-306. PRECINCT BOUNDARY REQUIREMENTS. (1) Precinct boundaries shall follow visible, easily recognizable physical features, on the ground including, but not limited to, streets, railroad tracks, roads, streams, and lakes. The exception shall be when a precinct boundary coincides with a city, county, Indian reservation or school district boundary which does not follow a visible feature.

(2) In order to achieve compliance with the requirements of this section, and simultaneously maintain legislative district boundaries which may not follow visible features, a county may designate subprecincts within precincts, the internal boundaries of which do not follow visible features.

History: [S.L. 1977, ch. 8; am. 1989, ch. 261; am. 1992, ch. 284]

34-307. PRECINCT BOUNDARIES MAINTAINED. From January 15 in any year ending in 8 through September 15 in any year ending in 1, the board of county commissioners shall make no changes in precinct boundaries, except that a single precinct may be divided into two (2) or more new precincts wholly contained within the original precinct.

History: [S.L. 1998, ch. 276]

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34-308. MAIL BALLOT PRECINCT. (1) A precinct within the county that contains no more than one hundred forty (140) registered electors at the last general election may be designated by the board of county commissioners as a mail ballot precinct no later than April 1 in an even-numbered year. Such a designation shall apply thereafter to all elections conducted within the precinct until revoked by the board of county commissioners or until the precinct contains one hundred fifty-one (151) registered electors at the last general election. Having designated a mail ballot precinct, there shall be no voting place established within the precinct. Elections in a mail ballot precinct shall be conducted in a manner consistent with absentee voting with the special provisions provided in this section.

(2) The clerk shall issue a ballot, by mail, to every registered voter in a mail ballot precinct and shall affix postage to the return envelope sufficient to return the ballot.

(3) The ballot shall be mailed no sooner than twenty-four (24) days prior to the election day and no later than the fourteenth day prior to the election.

(4) The clerk shall make necessary provisions to segregate mail ballot precinct ballots by precinct and, for all purposes of the election, the precinct integrity shall be maintained.

(5) The clerk shall make registration available in the office of the clerk on election day for any individual who is eligible to vote and who resides in a mail ballot precinct and has not previously registered. The clerk shall provide an official polling place in the office of the clerk, and a qualified elector who registers on election day and resides in a mail ballot precinct shall be allowed to vote at the office of the clerk.

(6)(a) Except as provided in paragraph (b) of this subsection, electors who have designated a political party affiliation pursuant to section ~~34-404~~, *Idaho Code*, shall receive the primary election ballot for that party pursuant to sections ~~34-904~~ and ~~34-904A~~, *Idaho Code*.

(b) Electors who have designated a political party affiliation pursuant to section ~~34-404~~, *Idaho Code*, may receive the primary election ballot of a political party other than the political party such elector is affiliated with if such other political party has provided notification to the secretary of state that identifies the political party such elector is affiliated with, as provided for in section 34-904A(2)(b), *Idaho Code*

(7) For “**unaffiliated**” electors, in order to receive a political party’s primary election ballot pursuant to section ~~34-904A~~, *Idaho Code*, the county clerk shall mail a ballot request form for the primary election ballot to the electors in a mail ballot precinct for the electors to use in selecting the party ballot they choose to receive.

(a) In the event that more than one (1) political party allows electors designated as “**unaffiliated**” to vote in their party’s primary election pursuant to section ~~34-904A~~, *Idaho Code*, an elector designated as “**unaffiliated**” shall indicate on the form such elector’s choice of the political party’s primary election ballot in order to vote in that party’s primary election.

(b) In the event no more than one (1) political party allows electors designated as “**unaffiliated**” to vote in their party’s primary election pursuant to section ~~34-904A~~, *Idaho Code*, an elector designated as “**unaffiliated**” shall indicate on the form that political party’s primary election ballot in order to vote in that political party’s primary election.

(c) If an elector designated as “**unaffiliated**” is not permitted to vote in a political party’s primary election as provided for in section ~~34-904A~~, *Idaho Code*, such elector shall receive a nonpartisan ballot.

(d) If an elector designated as “**unaffiliated**” does not indicate on the form a choice of political party’s primary election ballot, such elector shall receive a nonpartisan ballot.

History: [S.L. 2004, ch. 165; am. 2011, ch. 319; am. 2019, ch. 97]

Chapter 4: Voters—Privileges—Qualifications and Registration

34-401. ELECTORS PRIVILEGED FROM ARREST DURING ATTENDANCE AT POLLING PLACE—EXCEPTION.

Electors are privileged from arrest, except for treason, a felony or breach of the peace, during their attendance at a polling place.

History: [S.L. 1970, ch. 140]

34-402. QUALIFICATIONS OF ELECTORS. Every male or female citizen of the United States, eighteen (18) years old, who has resided in this state and in the county for thirty (30) days where he or she offers to vote prior to the day of election, if registered within the time period provided by law, is a qualified elector.

History: [S.L. 1970, ch. 140; am. 1971, ch. 192; am. 1972, ch. 392; am. 1973, ch. 304; am. 1982, ch. 253]

34-403. DISQUALIFIED ELECTORS NOT PERMITTED TO VOTE. No elector shall be permitted to vote if he is disqualified as provided in article 6, sections 2 and 3 of the state constitution.

History: [S.L. 1970, ch. 140]

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34-404. REGISTRATION OF ELECTORS—POLITICAL PARTY AFFILIATION—UNAFFILIATED DESIGNATION.

(1) All electors must register before being able to vote at any primary, general, special, school or any other election governed by the provisions of title 34, Idaho Code. Registration of a qualified person occurs when a legible, accurate and complete registration application and proof of identity and residence are received in the office of the county clerk or at the polls pursuant to section 34-408(3), 34-408A, or 34-1012, Idaho Code.

(2) Each elector may select on the registration application an affiliation with a political party qualified to participate in elections pursuant to section 34-501, Idaho Code, or may select to be designated as unaffiliated. The county clerk shall record the party affiliation or unaffiliated designation so selected as part of the elector's registration record. If an elector shall fail or refuse to make such a selection, the county clerk shall enter on the registration records that such elector is unaffiliated.

(3) In order to provide an elector with the appropriate primary election ballot, pursuant to section 34-904A, Idaho Code, the poll book for primary elections shall include the party affiliation or designation as unaffiliated for each elector so registered. An unaffiliated elector shall declare to the poll worker which primary election ballot the elector chooses to vote in, pursuant to section 34-904A, Idaho Code, and the poll worker or other authorized election personnel shall record such declaration in the poll book. The poll book shall contain checkoff boxes to allow the poll worker or other authorized election personnel to record such unaffiliated elector's selection.

History: [S.L. 1970, ch. 140; am. 1971, ch. 192; am. 1972, ch. 197; am. 1987, ch. 256; am. 1997, ch. 356; am. 2011, ch. 319; am. 2016, ch. 359; am. 2023, ch. 293]

34-405. GAIN OR LOSS OF RESIDENCE BY REASON OF ABSENCE FROM STATE. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his absence while employed in the service of this state or the United States, while a student of any institution of learning, while kept at any state institution at public expense, nor absent from the state with the intent to have this state remain his residence. If a person is absent from this state but intends to maintain his residence for voting purposes here, he shall not register to vote in any other state during his absence.

History: [S.L. 1970, ch. 140]

34-406. APPOINTMENT OF REGISTRARS. (1) The county clerk shall provide for voter registration in the clerk's office and may appoint registrars to assist in voter registration throughout the county.

(2) The county clerk shall provide all political parties within the county with a supply of the registration form prescribed in section 34-411, Idaho Code.

History: [S.L. 1994, ch. 67; am. 2011, ch. 319]

34-407. PROCEDURE FOR REGISTRATION. (1) Any county clerk or official registrar shall register without charge any elector who personally appears in the office of the county clerk or before the official registrar, as the case may be, and requests to be registered.

(2) Upon receipt of a written application to the county clerk from any elector who, by reason of illness or physical incapacity is prevented from personally appearing in the office of the county clerk or before an official registrar, the county clerk or an official registrar so directed by the county clerk shall register such elector at the place of abode of the elector.

History: [S.L. 1970, ch. 140; am. 1971, ch. 192; am. 1991, ch. 337; am. 1995, ch. 215]

34-408. CLOSING OF REGISTER—TIME LIMIT. (1) No elector may register in the office of the county clerk within twenty-four (24) days preceding any election held throughout the county in which he resides for the purpose of voting at such election; provided however, a legible, accurate and complete registration application received in the office of the county clerk during the twenty-four (24) day period preceding an election shall be accepted and held by the county clerk until the day following the election when registration reopens, at which time the registration shall become effective. This deadline shall also apply to any registrars the county clerk may have appointed.

(2) Any elector who will complete his residence requirement or attain the requisite voting age during the period when the register of electors is closed may register prior to the closing of the register.

(3) Notwithstanding subsection (1) of this section, an individual who is eligible to vote may also register, upon completing a registration application and showing proof of identity and residence pursuant to section 34-411, Idaho Code, at the absent electors' polling place provided in section 34-1006, Idaho Code, or at an early voting station provided in section 34-1012, Idaho Code.

History: [S.L. 1970, ch. 140; am. 1971, ch. 192; am. 1974, ch. 172; am. 1981, ch. 105; am. 1994, ch. 67; am. 2001, ch. 99; am. 2005, ch. 127; am. 2016, ch. 359; am. 2023, ch. 293]

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34-408A. ELECTION DAY REGISTRATION. (1) An individual who is eligible to vote may register on election day by appearing in person at the polling place for the precinct in which the individual maintains residence, completing a registration application, showing proof of identity and residence pursuant to section 34-411, *Idaho Code*, and making an oath in the form prescribed by the secretary of state.

(2) Election day registration provided in this section shall apply to all elections conducted under title 34, *Idaho Code*, and to school district and municipal elections.

History: [S.L. 1994, ch. 67; am. 1995, ch. 215; am. 1997, ch. 356; am. 2011, ch. 285; am. 2016, ch. 359; am. 2023, ch. 293]

34-409. ELECTRONIC REGISTRATION. (1) The office of the secretary of state may create and maintain an electronic system for voter registration that is publicly available on its official website. Any qualified elector who has a current valid driver's license or identification card issued pursuant to title 49, *Idaho Code*, that reflects the person's current principal place of residence, may register to vote by submitting a completed voter registration application electronically through such website. Electronic voter registration applications shall be submitted before the close of registration as provided in section 34-408, *Idaho Code*.

(2) The electronic voter registration application shall be in a form prescribed by the secretary of state and shall:

(a) Require the information under oath or affirmation set forth in section 34-411, *Idaho Code*;

(b) Include notice of the requirement to provide personal identification before voting at the polls as set forth in sections 34-1113 and 34-1114, *Idaho Code*; and

(c) Require an electronic signature of the applicant.

(3) The office of the secretary of state shall obtain a digital copy of the applicant's driver's license or identification card signature from the Idaho transportation department. The Idaho transportation department shall, upon request of the office of the secretary of state, provide a digital copy of the applicant's driver's license or identification card signature.

(4) Upon receipt of a completed voter registration application and a digital copy of the applicant's driver's license or identification card signature from the Idaho transportation department, the office of the secretary of state shall send the information to the county clerk for the county in which the applicant resides. The county clerk shall prepare and issue to each elector registering electronically a verification of registration containing the name and residence of the elector and the name or number of the precinct in which the elector resides. Such verification of registration may be sent by nonforwardable first-class mail or by electronic mail at the elector's option. If a verification is returned undeliverable, then the county clerk shall remove the elector from the register of electors.

(5) An applicant using the electronic system for voter registration pursuant to this section shall not be required to complete a printed registration card.

(6) The office of the secretary of state shall use such security measures necessary to ensure the accuracy and integrity of an electronically submitted voter registration application.

History: [S.L. 2016, ch. 359]

34-410. MAIL REGISTRATION. (1) Any elector may register by mail for any election. Any mail registration application must be received by the county clerk prior to the close of registration as provided in section 34-408, *Idaho Code*, provided that any mail registration application postmarked not later than twenty-five (25) days prior to an election shall be deemed timely.

(2) The secretary of state shall prescribe the form for the mail registration application.

(3) The mail application form shall be available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(4) Any federal mail registration form adopted pursuant to the provisions of the national voter registration act of 1993 (P.L. 103-31) shall also be accepted as a valid registration, if such form is postmarked not later than twenty-five (25) days prior to an election.

(5) The county clerk shall prepare and issue by first class nonforwardable mail to each elector registering by mail a verification of registration containing the name and residence of the elector and the name or number of the precinct in which the elector resides. A verification returned undeliverable shall cause the county clerk to remove the elector's card from the register of electors.

(6) As required by the help America vote act of 2002 (P.L. 107-252), a copy of proper identification will be required prior to issuance of a ballot to anyone who has registered by mail and has not previously voted in an election for federal office in the state. Proper identification shall meet the requirements of section 34-411(3) and (4), *Idaho Code*.

History: [S.L. 1994, ch. 67; am. 1995, ch. 215; am. 2003, ch. 48; am. 2023, ch. 293]

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34-410A. ABSENTEE REGISTRATION FOR UNIFORMED AND OVERSEAS CITIZENS. Whenever provision is made for absentee voting by a statute of the United States, including the “**Uniformed and Overseas Citizens Absentee Voting Act**” (42 U.S.C. 1973 ff.), an application for an absentee ballot made under that law may be given the same effect as an application for an absentee ballot made under chapter 10, title 34, Idaho Code.

History: [S.L. 1995, ch. 215]

34-411. APPLICATION FOR REGISTRATION—CONTENTS—PROOF OF IDENTITY AND RESIDENCE. (1) The secretary of state shall prescribe the form for the registration application consistent with the provisions of this section. Each elector who requests registration shall show proof of identity and residence in accordance with subsections (3) and (4) of this section and shall supply the following information under oath or affirmation:

- (a) Full name and sex;
- (b) Residence address or any other necessary information definitely locating the elector’s residence;
- (c) Mailing address, if different from residence address;
- (d) The period of time preceding the date of registration during which the elector has resided in the state;
- (e) Whether or not the elector is a citizen;
- (f) That the elector is under no legal disqualifications to vote;
- (g) The county and state where the elector was previously registered, if any;
- (h) Date of birth; and
- (i) Current driver’s license number or identification card issued by the Idaho transportation department. In the absence of an Idaho driver’s license or state issued identification card, the last four (4) digits of the elector’s social security number.

(2) As provided for in section 34-404, Idaho Code, each elector shall select an affiliation with a political party qualified to participate in elections pursuant to section 34-501, Idaho Code, or select to be designated as unaffiliated. The selection of party affiliation or designation as unaffiliated shall be maintained within the voter registration system as provided for in section 34-437A, Idaho Code. If an elector shall fail or refuse to make such a selection, the county clerk shall record as unaffiliated such elector within the voter registration system as provided for in section 34-437A, Idaho Code.

(3) An individual shall prove identity for the purpose of registering to vote by showing one (1) of the following forms of photo identification:

- (a) A current driver’s license or identification card issued pursuant to title 49, Idaho Code;
- (b) A current passport or other identification card issued by an agency of the United States government;
- (c) A current tribal identification card; or
- (d) A current license or enhanced license to carry concealed weapons issued under section 18-3302, Idaho Code, or section 18-3302K, Idaho Code.

(4)(a) An individual shall prove residence for the purpose of registering to vote by showing one (1) of the following documents that displays the applicant’s name and current Idaho physical address:

- (i) Any form of photo identification listed in subsection (3)(a), (c), or (d) of this section;
 - (ii) A current proof of insurance;
 - (iii) A deed of trust, mortgage, or lease or rental agreement;
 - (iv) A property tax assessment, bill, or receipt;
 - (v) A utility bill, excluding a cellular telephone bill;
 - (vi) A bank or credit card statement;
 - (vii) A paystub, paycheck, or government-issued check;
 - (viii) An intake document from a residential care or assisted living facility licensed pursuant to the provisions of chapter 33, title 39, Idaho Code;
 - (ix) Enrollment papers issued for the current school year by a high school or an accredited institution of higher education located within the state of Idaho; or
 - (x) A communication on letterhead from a public or private social service agency registered with the secretary of state verifying the applicant is homeless and attesting to the applicant’s residence for registration purposes.
- (b) Any document that displays only a post office box address does not satisfy the requirements of this subsection.

(5)(a) The registration application shall contain the following warning:

WARNING: Any elector who supplies any information, knowing
it to be false, is guilty of perjury.

(b) The elector shall read the warning set forth in this subsection and shall sign the elector’s name in an appropriate place on the completed application.

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(6) The registration application completed and signed as provided in this section constitutes the official registration application of the elector. The county clerk shall upload such applications to the statewide voter registration database. Such applications shall be considered confidential and unavailable for public inspection and copying except as provided by section 74-106(25), *Idaho Code*.

(7) Any elector who shall supply any information under subsection (1) of this section, knowing it to be false, is guilty of perjury.

(8) Each elector who requests registration may, at the elector's option, supply the elector's telephone number. If the telephone number is supplied by the elector, the telephone number shall be available to the public.

(9) The statewide voter registration database maintained by the office of the secretary of state shall constitute the register of electors.

History: [S.L. 1970, ch. 140; am. 1971, ch. 192; am. 1972, ch. 392; am. 1988, ch. 233; am. 1995, ch. 215; am. 2003, ch. 48; am. 2011, ch. 319; am. 2012, ch. 211; am. 2023, ch. 293]

34-411A. PRIMARY ELECTIONS—CHANGING PARTY AFFILIATION—UNAFFILIATED ELECTORS. (1) For a primary election an elector may change such elector's political party affiliation or become unaffiliated by filing a signed form with the county clerk no later than the last day a candidate may file for partisan political office prior to such primary election, as provided for in section 34-704, *Idaho Code*. An unaffiliated elector may affiliate with the party of the elector's choice by filing a signed form up to and including election day. The application form described in section 34-1002, *Idaho Code*, shall also be used for this purpose.

(2) For a primary election, an unaffiliated elector may select a political party affiliation only prior to voting in the primary election. An elector may make such selection on or before election day by declaring such political party affiliation to the poll worker or other appropriate election personnel. The poll worker or other appropriate election personnel shall then record in the poll book the elector's choice. After the primary election, the county clerk shall record the party affiliation so recorded in the poll book as part of such elector's record within the voter registration system as provided for in section 34-437A, *Idaho Code*.

History: [S.L. 2011, ch. 319; am. 2012, ch. 211, am. 2020, ch. 55; am. 2023, ch. 208]

34-412. QUALIFICATIONS FOR REGISTRATION. (1) The qualifications of any person who requests to be registered shall be determined in the first instance by the registering official from the evidence before him. If the registering official determines that such person is not qualified, he shall refuse to register the person.

(2) A person refused registration under subsection (1) of this section may make application to the county clerk for a hearing on his qualifications. Not more than ten (10) days after the date he receives such application, the county clerk shall hold a hearing on the qualifications of the applicant and shall notify the applicant of the place and time of such hearing. At such hearing the applicant may present evidence as to his qualifications, provided that no hearing shall be held subsequent to any election which is held within said ten (10) day period. If the county clerk determines that the applicant is qualified, the county clerk shall register the applicant immediately upon the conclusion of the hearing.

History: [S.L. 1970, ch. 140; am. 1982, ch. 216; am. 1995, ch. 215]

34-413. REREGISTRATION OF ELECTOR WHO CHANGES RESIDENCE. An elector who moves to another county within the state or to another state within thirty (30) days prior to any election shall be permitted to vote in the ensuing election by absentee ballot or at the polling place assigned to the elector's prior address.

History: [S.L. 1970, ch. 140; am. 1972, ch. 392; am. 1977, ch. 15; am. 1982, ch. 137; am. 1983, ch. 213; am. 1995, ch. 215; am. 2019, ch. 96]

34-414. [REPEALED: AM. 1995, ch. 215]

34-415. [REPEALED: AM. 1995, ch. 215]

34-416. [REPEALED: AM. 2023, ch. 293]

34-417. [REPEALED: AM. 2019, ch. 96]

34-418. WEEKLY REVIEW OF NEW VOTER REGISTRATIONS — REPORT TO INTERESTED OFFICIALS. (1) Each week the county clerk shall review the registration cards of all newly registered electors for the past weekly period to determine whether they have been previously registered to vote in another state or in another county within this state.

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The county clerk or secretary of state, through the statewide voter registration system, shall notify the proper registration official or county clerk where the elector was previously registered so that the prior registration may be canceled. The form of such notice shall be prescribed by the secretary of state.

(2) The secretary of state, in conjunction with the county clerks, shall make an annual report to the legislature regarding voter registration maintenance actions performed by them.

History: [S.L. 1970, ch. 140; am. 2006, ch. 70; am. 2022, ch. 172]

34-419. SUSPENSION OF REGISTRATION OF ELECTORS WHO APPEAR NOT TO BE CITIZENS OF THE UNITED STATES. The county clerk shall remove from the register of electors the official registration application of any elector who appears by the registration records in the office of the county clerk not to be a citizen of the United States and shall suspend the registration of such elector. The county clerk shall mail a written notice of such removal and suspension to the elector at his residence address indicated on the application. If the elector proves to the county clerk that he is in fact a citizen of the United States, his application shall be replaced in the register and his registration reinstated.

History: [S.L. 1970, ch. 140; am. 2016, ch. 359]

34-420. NO ELECTOR'S REGISTRATION SHALL BE CANCELED WHILE SERVING IN THE ARMED FORCES — EXCEPTION. Except as provided in section 34-435, *Idaho Code*, or for registering to vote in another jurisdiction, no elector's registration shall be canceled, nor shall he be deprived of his right to vote at any election by reason of the removal of his official registration application from the register of electors, during any period that he is serving in the armed forces of the United States or of any ally of the United States.

History: [S.L. 1970, ch. 140; am. 1987, ch. 20; am. 2016, ch. 359; am. 2019, ch. 96]

34-421. [REPEALED: AM. 1995, ch. 215]

34-422. [REPEALED: AM. 1981, ch. 255]

34-423. [REPEALED: AM. 1995, ch. 215]

34-424 TO 34-430. [REPEALED: AM. 1973, ch. 123]

34-431. CHALLENGES OF ENTRIES IN ELECTION REGISTER. At the time of any election, any registered elector may challenge the entry of an elector's name as it appears in the election register. Such a challenge will be noted in the remarks column following the elector's name stating the reason, such as "died," "moved," or "incorrect address." The individual making the challenge shall sign his name following the entry.

History: [S.L. 1970, ch. 140]

34-432. CORRECTION OF ELECTION REGISTER FROM CHALLENGES AT ELECTION. (1) No later than the ninth Friday after each election, the county clerk shall examine the election register and note the challenges as described in section 34-431, *Idaho Code*. The county clerk shall mail a written inquiry to the challenged elector at his mailing address as indicated on his registration card. Such inquiry shall state the nature of the challenge and provide a suitable form for reply.

(2) Within twenty (20) days from the date of mailing of the written inquiry, the elector may, in person or in writing, state that the information on his registration card is correct. Upon receipt of such a statement or request, the county clerk shall determine whether the information satisfies the challenge. If the county clerk determines that the challenge has not been satisfied, the county clerk shall schedule a hearing on the challenge and shall notify the elector of the place and time of the hearing. The hearing shall be held no later than twenty (20) days after notice is given. At the hearing, the challenged elector may present evidence of qualification. If the county clerk, upon the conclusion of the hearing, determines that the challenged elector's registration is not valid, the county clerk shall cancel the registration. If a challenged elector fails to make the statement or request in response to the inquiry, the county clerk shall cancel the registration.

(3) The county clerk may make inquiry into the validity of any registration at any time. The inquiry shall proceed as provided in this section.

History: [S.L. 1970, ch. 140; am. 1982, ch. 137; am. 1989, ch. 146; am. 2006, ch. 70; am. 2019, ch. 96]

34-433. MONTHLY CORRECTION OF ELECTION REGISTER FROM REPORTED DEATHS. (1) The state board of health and welfare shall, on or about the twenty-fifth day of each month, furnish to the secretary of state a listing showing the name, date of birth, county of residence and residence address of each Idaho resident who has died during the preceding month. The secretary of state shall sort this list by county and furnish a copy of same to each county clerk. Each county clerk shall immediately cancel all registrations of individuals reported as deceased by the state board of health and welfare in the board's report to the secretary of state.

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(2) A version of the list provided to the secretary of state by the state board of health and welfare pursuant to subsection (1) of this section may be requested from the board as a public record, provided that the publicly requestable list shall include each decedent's name, county of residence, residence address, and age at the time the publicly available list is created, but shall not include any decedent's date of birth or any other information.

History: [S.L. 1970, ch. 140; am. 2022, ch. 314]

34-434. RETENTION OF NOTICES AND CORRESPONDENCE RELATING TO CORRECTION OF ELECTION REGISTERS. Copies of all notices and other correspondence issued pursuant to the directives contained in sections 67 and 68 of this act [[34-432](#), [34-433](#), *Idaho Code*] shall be retained by the county clerk for a period of two (2) years from date of mailing.

History: [S.L. 1970, ch. 140]

34-435. CANCELLATION OF REGISTRATIONS FOLLOWING ANY GENERAL ELECTION OF THOSE NOT VOTING FOR FOUR YEARS. Within one hundred twenty (120) days following the date of the general election, the county clerk shall examine the election register and the signed statements of challenge made at that election. After this examination, the county clerk shall immediately cancel the registration of any elector who did not vote at any election in the past four (4) years.

This section shall be construed as to provide for a uniform four (4) year registration period for all electors.

History: [S.L. 1970, ch. 140; am. 1975, ch. 124; am. 1977, ch. 15; am. 1978, ch. 27; am. 1995, ch. 215; am. 2015, ch. 282]

34-436. RETENTION OF CORRESPONDENCE RELATING TO CANCELLATION OF VOTER'S REGISTRATION. All correspondence relating to the cancellation of an elector's registration shall be preserved by the county clerk for a period of two (2) years following the time of any general election.

History: [S.L. 1970, ch. 140]

34-437. FURNISHING LISTS OF REGISTERED ELECTORS—RESTRICTIONS. (1) Each of the county clerks, upon receiving a request shall supply to any individual, a current list of the registered electors of the county and their addresses, arranged in groups according to election precincts. The county clerks shall prepare an original of the above list from the state voter registration system at county expense. Any person desiring a copy of the original list shall be furnished the same, and the county clerk shall assess the individual an amount which will compensate the county for the cost of reproducing such copy.

(2) No person to whom a list of registered electors is made available or supplied under subsection (1) of this section and no person who acquires a list of registered electors prepared from such list shall use any information contained therein for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however, that any such list and label may be used for any political purpose.

History: [S.L. 1970, ch. 140; am. 1972, ch. 392; am. 1973, ch. 304; am. 1976, ch. 344; am. 1982, ch. 137; am. 2003, ch. 48]

34-437A. STATEWIDE LISTS OF REGISTERED ELECTORS. (1) The secretary of state, in conjunction with county clerks, shall develop and implement a single, uniform official, centralized, interactive, computerized statewide voter registration system as required by the Help America Vote Act of 2002 (P.L. 107-252).

(2) The statewide system shall contain the name and registration information of every legally registered voter in the state and assign a unique identifier to each legally registered voter in the state, and include the following:

(a) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(b) The computerized list shall contain the name and registration information of every legally registered voter in the state.

(c) Under the computerized list, a unique identifier shall be assigned to each legally registered voter in the state.

(d) The computerized list shall be coordinated with other agency databases within the state.

(e) Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

(f) All voter registration information obtained by any local election official in the state shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(g) The secretary of state shall provide such support as may be required so that the local election officials are able to enter information as described in subsection (2)(f) of this section.

(h) The computerized list shall serve as the official voter registration list for the conduct of all elections for federal office in the state.

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(3) Any person desiring a copy of the statewide list of registered electors shall be furnished the same, and the secretary of state shall assess the individual an amount which will compensate the state for the cost of reproducing such copy.

No person to whom a list of statewide electors is furnished and no person who acquires a list of statewide electors prepared from such list shall use any information contained therein for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided however that any such list and label may be used for any political purpose.

History: [S.L. 1976, ch. 344; am.2003, ch. 48]

34-437B. FURNISHING LISTS OF REGISTERED ELECTORS TO SCHOOL DISTRICTS. Each of the county clerks, upon receiving a request therefor, not later than the thirtieth day prior to a school election, shall, not later than the seventh day prior to the election, supply to a requesting school board a list of registered electors, that are within the school district within which a school district election is to be held. The county clerk may assess the school board an amount which will compensate the county for the cost of preparing such a list.

History: [S.L. 1987, ch. 256; am.1988, ch. 71; am.2006, ch. 70]

34-438. [REPEALED: AM. 2003, ch. 48]

34-439. [REPEALED: AM. 2021, ch. 863]

34-439A. [REPEALED: AM. 2021, ch. 863]

Chapter 5: Political Parties—Organization

34-501. “POLITICAL PARTY” DEFINED—PROCEDURES FOR CREATION OF A POLITICAL PARTY. (1) A “political party” within the meaning of this act, is an organization of electors under a given name. A political party shall be deemed created and qualified to participate in elections in any of the following three (3) ways:

- (a) By having three (3) or more candidates for state or national office listed under the party name at the last general election, provided that those individuals seeking the office of president, vice president and president elector shall be considered one candidate, or
- (b) By polling at the last general election for any one of its candidates for state or national office at least three per cent (3%) of the aggregate vote cast for governor or for presidential electors.
- (c) By an affiliation of electors who shall have signed a petition which shall:
 - (A) State the name of the proposed party in not more than six (6) words;
 - (B) State that the subscribers thereto desire to place the proposed party on the ballot;
 - (C) Have attached thereto a sheet or sheets containing the signatures of at least a number of qualified electors equal to two per cent (2%) of the aggregate vote cast for presidential electors in the state at the previous general election at which presidential electors were chosen;
 - (D) Be filed with the secretary of state on or before August 30 of even numbered years;
 - (E) The format of the signature petition sheets shall be prescribed by the secretary of state and shall be patterned after, but not limited to, such sheets as used for state initiative and referendum measures;
 - (F) The petitions and signatures so submitted shall be verified in the manner prescribed in section 34-1807, Idaho Code.
 - (G) The petition shall be circulated no earlier than August 30 of the year preceding the general election.

(2) Upon certification by the secretary of state that the petition has met the requirements of this act such party shall, under the party name chosen, have all the rights of a political party whose ticket shall have been on the ballot at the preceding general election.

The newly certified party shall proceed to hold a state convention in the manner provided by law; provided, that at the initial convention of any such political party, all members of the party shall be entitled to attend the convention and participate in the election of officers and the nominations of candidates. Thereafter the conduct of any subsequent convention shall be as provided by law.

History: [S.L. 1978, ch. 256; am.1985, ch. 42; am.1987, ch. 262]

34-502. COUNTY CENTRAL COMMITTEE—MEMBERS—OFFICERS—DUTIES OF CHAIRMAN—NOTICE TO CHAIRMAN. The county central committee of each political party in each county shall consist of the precinct committeemen representing the precincts within the county and the county chairman elected by the precinct committeemen. The precinct committeemen within each county shall meet at the county seat within ten (10) days after the primary election

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and at the time and date designated by the incumbent county chairman, and shall organize by electing a chairman, vice chairman, a secretary, a state committeeman, a state committeewoman, and such other officers as they may desire who shall hold office at the pleasure of the county central committee or until their successors are elected.

Unless state party rules, adopted as provided in section 34-505, *Idaho Code*, provide otherwise, when a vacancy exists in the office of county central committee chairman, it shall be the duty of the state central committee chairman to call a meeting of the precinct committeemen of the county, and the precinct committeemen shall proceed to elect a chairman of the county central committee for the balance of the unexpired term.

The county central committee shall fill by appointment all vacancies that occur or exist in the office of precinct committeeman who shall be a qualified elector of the precinct.

The county clerk shall deliver in writing to the chairman of the county central committee of each political party on or before January 20 of each year in which a general election is to be held, a list of the election precincts in the county and the names and addresses of the precinct committeemen who were elected at the last primary election, or who have since been appointed as precinct committeemen, as such election or appointment is shown on the records of the county clerk. If the county clerk has no record of precinct committeemen, he shall in writing, so inform the chairman of the county central committee.

The chairman of the county central committee shall on or before February 1 of each year in which a general election is to be held, and at such other times as changes occur, certify to the county clerk the names and addresses of the precinct committeemen of his political party

History: [S.L. 1970, ch. 140; am.1975, ch. 21; am.1976, ch. 351; am.2011, ch. 285]

34-503. LEGISLATIVE DISTRICT CENTRAL COMMITTEE—MEMBERSHIP—OFFICERS. The legislative district central committee of each political party in each legislative district shall consist of the precinct committeemen representing the precincts within the legislative district, and the legislative district chairman elected by the precinct committeemen. The precinct committeemen within each legislative district shall meet within the legislative district or at a convenient location in a legislative district contiguous to the legislative district, or at a convenient location in a county in which any portion of the legislative district sits, within eleven (11) days after the primary election, the meeting time and place to be designated by the incumbent legislative district chairman. At this meeting the precinct committeemen shall organize by electing a chairman, vice chairman, a secretary and such other officers as they may desire, who shall hold office at the pleasure of the legislative district central committee or until their successors are elected.

Unless state party rules, adopted as provided in section 34-506, *Idaho Code*, provide otherwise, when a vacancy exists in the office of legislative district central committee chairman, it shall be the duty of the state central committee chairman to call a meeting of the precinct committeemen of the legislative district, and the precinct committeemen shall proceed to elect a chairman of the legislative district central committee for the balance of the unexpired term.

History: [S.L. 1970, ch. 140; am.1976, ch. 351; am.2006, ch. 397]

34-504. STATE CENTRAL COMMITTEE—MEMBERSHIP. The state central committee of each political party shall consist of all legislative district chairmen, all county central committee chairmen, all state committeemen, and state committeewomen selected by the county central committees. Each of the above members of the state central committee shall be entitled to vote at all meetings of the state central committee.

History: [S.L. 1970, ch. 140]

34-504A. [REPEALED: AM. 1970, ch. 140]

34-505. POWERS AND DUTIES OF COUNTY CENTRAL COMMITTEE. The county central committee shall have all the powers and duties prescribed by state law and rules and regulations promulgated and adopted by the state conventions or the state central committee.

History: [S.L. 1970, ch. 140]

34-506. POWERS AND DUTIES OF LEGISLATIVE DISTRICT CENTRAL COMMITTEE. The legislative district central committee shall have all the powers and duties prescribed by state law and rules and regulations promulgated and adopted by the state conventions or the state central committee.

History: [S.L. 1970, ch. 140]

34-507. SELECTION OF DELEGATES TO THE STATE CONVENTION. The delegates to the state convention of each political party shall be selected in the manner prescribed by rules and regulations promulgated and adopted by the state central committee.

History: [S.L. 1970, ch. 140; am.1971, 1st E.S., ch. 9]

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Chapter 6: Time of Elections—Officers Elected

34-601. DATES ON WHICH ELECTIONS SHALL BE HELD. Elections shall be held in this state on the following dates or times:

(1) A primary election shall be held on the third Tuesday in May, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(2) A general election shall be held on the first Tuesday after the first Monday of November, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(3) Special state elections shall be held on the dates ordered by the governor's proclamation, or as otherwise provided by law.

History: [S.L. 1970, ch. 140; am.1971, ch. 193; am.1975, ch. 174; am.1979, ch. 309; am.2009, ch. 341; am.2012, ch. 33 am. 2015, ch. 292; am. 2023, ch. 208]

34-602. PUBLICATION OF NOTICES FOR PRIMARY, GENERAL OR SPECIAL ELECTIONS—CONTENTS. The several county clerks shall publish at least two (2) times, the notices for any primary, general or special election. The notice shall state the date of the election, the polling place in each precinct and the hours during which the polls shall be open for the purpose of voting, and information about the accessibility of the polling places.

The first notice shall be published at least twelve (12) days prior to any election and the second notice shall be published not later than five (5) days prior to the election. The notice of election shall be published in at least two (2) newspapers published within the county, but if this is not possible, the notice shall be published in one (1) newspaper published within the county or a newspaper which has general circulation within the county.

The second notice of election shall be accompanied by a facsimile, except as to size, of the sample ballot for the election.

History: [S.L. 1970, ch. 140; am.2004, ch. 112; am.2009, ch. 341]

34-603. CERTIFICATION OF A PROPOSED CONSTITUTION, CONSTITUTIONAL AMENDMENT OR OTHER QUESTION TO BE SUBMITTED TO THE PEOPLE FOR VOTE. Whenever a proposed constitution, constitutional amendment or other question is to be submitted to the people of the state for popular vote, it shall be certified by the secretary of state to the county clerks not later than September 7 in the year in which it will be voted upon. It shall be published in the form prescribed by the secretary of state.

History: [S.L. 1970, ch. 140; am.1973, ch. 304; am.1984, ch. 131; am.1985, ch. 42]

34-604. ELECTION OF UNITED STATES SENATOR—QUALIFICATIONS. (1) At the general election, 1972, and every six (6) years thereafter, there shall be elected one (1) United States senator. At the general election, 1974, and every six (6) years thereafter, there shall be elected one (1) United States senator.

(2) No person shall be elected to the office of United States senator unless he has attained the age of thirty (30) years at the time of his election, has been a citizen of the United States at least nine (9) years and shall reside within the state at the time of his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of five hundred dollars (\$500) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

34-605. ELECTION OF UNITED STATES CONGRESSIONAL REPRESENTATIVES—QUALIFICATIONS. (1) At the general election, 1972, and every alternate year thereafter, there shall be elected in each United States congressional district a member of the United States house of representatives and any additional number of representatives to which the state may be entitled in the state at large.

(2) No person shall be elected to the house of representatives unless he has attained the age of twenty-five (25) years at the time of his election, has been a citizen of the United States at least seven (7) years and shall reside within the state at the time of his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1983, ch. 213; am.1996, ch. 28]

34-606. ELECTION OF PRESIDENTIAL ELECTORS. (1) At the general election, 1972, and every four (4) years thereafter, there shall be elected such a number of electors of president and vice president of the United States as the state may be entitled to in the electoral college.

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(2) No person shall be elected to this position unless he has attained the age of twenty-one (21) years at the time of the election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Such electors shall be certified to the secretary of state as provided for by law.

History: [S.L. 1970, ch. 140]

34-607. ELECTION OF GOVERNOR—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a governor shall be elected.

(2) No person shall be elected to the office of governor unless he shall have attained the age of thirty (30) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

34-608. ELECTION OF LIEUTENANT GOVERNOR—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, there shall be elected a lieutenant governor.

(2) No person shall be elected to the office of lieutenant governor unless he shall have attained the age of thirty (30) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

34-609. ELECTION OF SECRETARY OF STATE—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a secretary of state shall be elected.

(2) No person shall be elected to the office of secretary of state unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general account.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

34-610. ELECTION OF STATE CONTROLLER—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a state controller shall be elected.

(2) No person shall be elected to the office of state controller unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1994, ch. 181; am.1996, ch. 28]

34-611. ELECTION OF STATE TREASURER—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a state treasurer shall be elected.

(2) No person shall be elected to the office of state treasurer unless he shall have attained the age of twenty-five (25) years at the time of his election, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

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34-612. ELECTION OF ATTORNEY GENERAL—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, an attorney general shall be elected.

(2) No person shall be elected to the office of attorney general unless he shall have attained the age of thirty (30) years at the time of his election, is admitted to the practice of law within the state, is a citizen of the United States and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

34-612A–34-612D. [REPEALED: AM. 1970, ch. 140]

34-613. ELECTION OF SUPERINTENDENT OF PUBLIC INSTRUCTION—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a superintendent of public instruction shall be elected.

(2) No person shall be elected to the office of superintendent of public instruction unless he shall have attained the age of twenty-five (25) years at the time of his election; is a citizen of the United States; has a bachelor's degree from an accredited college or university, and shall have resided within the state two (2) years next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of two hundred dollars (\$200) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1974, ch. 182; am.1994, ch. 277; am.1996, ch. 28]

34-614. ELECTION OF STATE REPRESENTATIVES AND SENATORS — QUALIFICATIONS. (1) At the general election, 1972, and every alternate year thereafter, there shall be elected in each legislative district such representatives and senators as they may be severally entitled.

(2) No person shall be elected to the office of representative or senator unless he shall have attained the age of twenty-one (21) years at the time of the general election, is a citizen of the United States and shall have been a registered elector within the legislative district one (1) year next preceding the general election at which he offers his candidacy.

(3) Each candidate shall file his declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of thirty dollars (\$30.00) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am. 1981 (E.S.), ch. 2; am. 1996, ch. 28; am. 2019, ch. 227]

34-614A. CANDIDATES FOR STATE LEGISLATURE. (1) A candidate for the office of state senator in a multi-member legislative district, and all candidates for the office of representative shall declare, in their declarations of candidacy, the specific seat or position that they seek.

(2) The secretary of state shall designate positions by using the terms “**Position A**”, “**Position B**”, and continuing in such fashion until all seats or positions in each district are properly labeled. The positions in each district shall be separately and distinctly placed on the primary and general election ballots, and for each position to be filled the ballot shall state “**Vote for one**”.

(3) The candidate receiving the greatest number of votes for the position he seeks shall be declared nominated, or elected, as the case may be.

History: [S.L. 1984, ch. 121]

34-615. ELECTION—SELECTION—OF JUSTICES OF THE SUPREME COURT—QUALIFICATIONS. (1) At the primary election, 1972, and every alternate year thereafter, subject to the provisions of section [34-1217](#), *Idaho Code*, there shall be elected justices of the supreme court to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

(2) To be elected or appointed to the office of justice of the supreme court a person must, at the time of such election or appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election or appointment; and

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(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

(a) “**Active**”, “**judicial**”, and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia or any branch of the United States military; and

(c) “**Elector**” means one who is lawfully registered to vote.

(3) Each candidate for election shall file a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of three hundred dollars (\$300) which shall be deposited in the general fund.

History: [S.L. 1970, ch. 140; am.1972, ch. 46; am.1985, ch. 29; am.1996, ch. 28; am.2015, ch. 310]

34-616. ELECTION—SELECTION—OF DISTRICT JUDGES—QUALIFICATIONS. (1) At the primary election, 1974, and every four (4) years thereafter, subject to the provisions of section ~~34-1217~~, *Idaho Code*, there shall be elected in each judicial district a sufficient number of district judges to fill any vacancy or vacancies occasioned by the expiration of the term or terms of office of any member or members.

(2) To be elected to the office of district judge a person must, at the time of such election, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector in the judicial district in which elected;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election.

(3) Each candidate for election shall file a declaration of candidacy with the secretary of state.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of one hundred fifty dollars (\$150) which shall be deposited in the general fund.

(5) To be appointed to the office of district judge a person must, at the time of such appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States and an elector of the state of Idaho;

(c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;

(d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and

(e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such appointment.

(6) For purposes of this section, the following terms have the following meanings:

(a) “**Active**”, “**judicial**”, and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;

(b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia or any branch of the United States military; and

(c) “**Elector**” means one who is lawfully registered to vote.

History: [S.L. 1970, ch. 140; am.1972, ch. 46; am.1985, ch. 29; am.1996, ch. 28; am.2015, ch. 282; am.2015, ch. 310; am.2016, ch. 47]

34-617. ELECTION OF COUNTY COMMISSIONERS—QUALIFICATIONS. (1) A board of county commissioners shall be elected in each county at the general elections as provided by section ~~31-703~~, *Idaho Code*.

(2) No person shall be elected to the board of county commissioners unless he has attained the age of twenty-one (21) years at the time of the election, is a citizen of the United States, and shall have resided in the county one (1) year next preceding his election and in the district which he represents for a period of ninety (90) days next preceding the primary election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

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(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

History: [S.L. 1970, ch. 140; am.1982, ch. 332; am.1993, ch. 159; am.1996, ch. 28]

34-618. ELECTION OF COUNTY SHERIFFS—QUALIFICATIONS. (1) At the general election, 1972, and every four (4) years thereafter, a sheriff shall be elected in every county.

(2) No person shall be elected to the office of sheriff unless he has attained the age of twenty-one (21) years at the time of election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

(5) Each person who has been elected to the office of sheriff for the first time shall complete a tutorial concerning current Idaho law and rules as prescribed by the Idaho peace officers standards and training academy, unless the person is already certified as a chief of police, peace officer or detention deputy in the state of Idaho, and shall attend the newly elected sheriffs' school sponsored by the Idaho sheriffs' association.

History: [S.L. 1970, ch. 140; am.1996, ch. 28; am.2008, ch. 329]

34-619. ELECTION OF CLERKS OF DISTRICT COURT—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a clerk of the district court shall be elected in every county. The clerk of the district court shall be the ex-officio auditor and recorder.

(2) No person shall be elected to the office of clerk of the district court unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

History: [S.L. 1970, ch. 140; am.1996, ch. 28]

34-620. ELECTION OF COUNTY TREASURERS—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a county treasurer shall be elected in every county. The county treasurer shall be the ex-officio public administrator and ex-officio tax collector.

(2) No person shall be elected to the office of county treasurer unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

History: [S.L. 1970, ch. 140; am.1971, ch. 193; am.1996, ch. 28]

34-621. ELECTION OF COUNTY ASSESSORS—QUALIFICATIONS. (1) At the general election, 1974, and every four (4) years thereafter, a county assessor shall be elected in every county.

(2) No person shall be elected to the office of county assessor unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

History: [S.L. 1970, ch. 140; am.1971, ch. 193; am.1996, ch. 28]

34-622. ELECTION OF COUNTY CORONERS—QUALIFICATIONS. (1) At the general election, 1986, and every four (4) years thereafter, a coroner shall be elected in every county.

(2) No person shall be elected to the office of coroner unless he has attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States and shall have resided within the county one (1) year next preceding his election.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

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(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

(5) All newly elected or appointed county coroners shall attend a coroner's school within one (1) year of taking office. Such school shall be sponsored or endorsed by the Idaho state association of county coroners.

History: [S.L. 1970, ch. 140; am. 1994, ch. 54; am. 1996, ch. 28; am. 2010, ch. 355]

34-623. ELECTION OF COUNTY PROSECUTING ATTORNEYS—QUALIFICATIONS. (1) At the general election, 1984, and every four (4) years thereafter, a prosecuting attorney shall be elected in every county.

(2) No person shall be elected to the office of prosecuting attorney unless he has attained the age of twenty-one (21) years at the time of his election, is admitted to the practice of law within this state, is a citizen of the United States and a qualified elector within the county.

(3) Each candidate shall file his declaration of candidacy with the county clerk.

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of forty dollars (\$40.00) which shall be deposited in the county treasury.

History: [S.L. 1970, ch. 140; am.1972, ch. 115; am.1984, ch. 80; am.1996, ch. 28]

34-624. ELECTION OF PRECINCT COMMITTEEMEN—QUALIFICATIONS. (1) At the primary election, 1980, and every two (2) years thereafter, a precinct committeeman for each political party shall be elected in every voting precinct within each county. The term of office of a precinct committeeman shall be from the eighth day following the primary election until the eighth day following the next succeeding primary election.

(2) No person shall be elected to the office of precinct committeeman unless he has attained the age of eighteen (18) years at the time of his election, is a citizen of the United States, and is a registered elector of the voting precinct for a period of six (6) months next preceding his election.

(3) Each candidate shall file a declaration of candidacy with the county clerk.

(4) No filing fee shall be charged any candidate at the time of his filing his declaration of candidacy.

History: [S.L. 1970, ch. 140; am.1971, ch. 29; am.1972, ch. 128; am.1975, ch. 174; am.1979, ch. 309; am.1996, ch. 28; am.2011, ch. 285; am. 2021, ch. 203]

34-624A. ALTERNATIVE TO PRECINCT COMMITTEEMAN—PRECINCT COMMITTEEMAN AND VOTERS' DELEGATE TO THE PARTY'S COUNTY AND DISTRICT CONVENTIONS. (1) At least sixty (60) days prior to an election at which precinct committeemen are to be elected, the state chairman of any Idaho political party may request the secretary of state to replace, as to that party chairman's party, the ballot position title of "**precinct committeeman**" with the ballot position title "**precinct committeeman and voters' delegate to the party's county and district conventions.**" The party chairman making such a request to the secretary of state shall include with his request a sworn and acknowledged affidavit stating that he is the party chairman for his political party and that it is the state policy of his party that precinct committeemen be delegates to the party's county and district conventions.

(2) Upon receipt of such request and affidavit, the secretary of state shall have the duty to implement the request when prescribing the form and content of ballots and related documents and when preparing ballot instructions for Idaho counties.

(3) After the secretary of state has ordered such use, whenever the title "**precinct committeeman**" or its plural form shall be used in the *Idaho Code*, the title shall be construed to include within its meaning the title "**precinct committeeman and voters' delegate to the party's county and district conventions**" or its plural form.

History: [S.L. 1976, ch. 346]

34-625. ELECTION OF HIGHWAY DISTRICT COMMISSIONERS IN SINGLE COUNTYWIDE DISTRICTS—QUALIFICATIONS. (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404, *Idaho Code*.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not less than ninety (90) days prior to the general election. Each declaration of candidacy shall also bear the following words: "**I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number**"

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars (\$10.00) which shall be deposited in the county current expense fund.

History: [S.L. 1972, ch. 345; am.1985, ch. 253; am.1987, ch. 75; am.1998, ch. 300; am.2007, ch. 313]

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34-625A. ELECTION OF HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN SINGLE COUNTYWIDE DISTRICTS—QUALIFICATIONS. (1) In each general election, highway district commissioners in single countywide districts shall be elected as provided for in section 40-1404A, *Idaho Code*.

(2) No person shall be elected to the office of highway district commissioner unless he shall have attained the age of twenty-one (21) years at the time of his election, is a citizen of the United States, and shall be a resident of the highway district commissioner's subdistrict for which he seeks office.

(3) Each candidate shall file a declaration of candidacy with the county clerk not less than ninety (90) days prior to the general election. Each declaration of candidacy shall also bear the following words: "**I am a resident within the boundaries of Highway District Commissioner's Subdistrict Number**"

(4) Each candidate who files a declaration of candidacy shall at the same time pay a filing fee of ten dollars (\$10.00) which shall be deposited in the county current expense fund.

History: [S.L. 1998, ch. 300; am.2007, ch. 313]

34-626. PETITION IN LIEU OF FILING FEE. In lieu of paying the filing fee, candidates may qualify for the offices mentioned in Section 34-604 through Section 34-623, *Idaho Code*, by filing a declaration of candidacy and a nominating petition. The petition shall contain the signatures of qualified electors as follows:

- (a) One thousand (1,000) for any statewide office;
- (b) Five hundred (500) for any congressional district office (all signatures within proper district);
- (c) Two hundred (200) for the office of district judge (all signatures within proper district);
- (d) Fifty (50) for any legislative district office (all signatures within proper district);
- (e) Five (5) for any county office (County Commissioner signatures shall be within commissioner district).

Signatures on such nominating petitions shall be verified in the manner prescribed in section 34-1807, *Idaho Code*.

History: [S.L. 1996, ch. 28]

34-627. HOLDERS OF PARTISAN ELECTIVE OFFICE CHANGING POLITICAL PARTIES. Whenever any holder of a partisan elective office desires to change political parties, the change shall only be effective if the holder files a declaration of intent to change political parties with the election official with whom the holder of the partisan elective office has filed his declaration of candidacy for the office that the holder of the partisan elective office currently holds. After receiving the declaration of intent, the election official shall send a copy of the declaration to the affected political party central committees of both the political party, if any, that the holder of the partisan elective office desires to leave and the political party, if any, that the holder of the partisan elective office desires to join. A holder of a partisan elective office cannot change political parties between the date the holder of partisan elective office files for the primary election through three (3) months after the general election in which the partisan elective office was on the ballot. A holder of a partisan elective office only may change political parties pursuant to this section once per term. The election official shall be authorized to charge a holder of a partisan elective office desiring to change his political party a twenty-five dollar (\$25.00) fee to defray the election official's expenses in administering the provisions of this section.

History: [S.L. 1997, ch. 202; am.2017, ch. 21]

Chapter 7: Nominations—Conventions—Primary Elections

34-701. DECLARATIONS OF CANDIDACY AND PETITIONS—FORM PRESCRIBED BY SECRETARY OF STATE—FILING FEES. (1) The secretary of state shall prescribe the form for all declarations of candidacy and petitions required to be filed for any office. This form shall be uniform throughout the state; provided, however, that a candidate for judicial office must designate the particular office that he seeks, both in his petitions and declaration of candidacy.

(2) Declarations of candidacy shall include campaign contact information, including phone numbers.

(3) The form described in subsection (1) of this section shall include a sworn verification that the person satisfies the legal qualifications for the office being sought. Any person filing a form described in subsection (1) of this section shall disclose on such form whether the person has claimed an exemption under section 63-602G, *Idaho Code*, and the address of any homestead for which such exemption is claimed by the person and, if married, the person's spouse.

(4) All filing fees shall be paid in cash, cashier's check, postal money orders, credit card, debit card, or personal check. Any transaction cost associated with processing a credit card or debit card payment that is charged to the office receiving a candidate filing fee may be added to said filing fee.

History: [S.L. 1970, ch. 140; am.1970, ch. 231; am.1983, ch. 213; am. 2022, ch. 10; am. 2022, ch. 81; am. 2022, ch. 305; am. 2023, ch. 218]

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34-702. REQUIREMENTS FOR WRITE-IN CANDIDATES AT PRIMARY. (1) In addition to possessing all other qualifications, in order to become a candidate of a political party at the general election, those candidates whose names are written in at the primary election must:

(a) Receive at least the following number of write-in votes at the primary election:

- (i) One thousand (1,000) for any statewide office;
- (ii) Five hundred (500) for a congressional district office;
- (iii) Fifty (50) for a legislative district office; or
- (iv) Five (5) for a county office; and

(b) File a declaration of intent for that office, pursuant to section 34-702A, *Idaho Code*.

(2) Candidates who are required to file with the secretary of state shall pay the filing fee required for that office no later than the deadline for filing a declaration of intent pursuant to section 34-702A, *Idaho Code*, or shall file a petition pursuant to section 34-626, *Idaho Code*.

(3) No write-ins shall be allowed for judicial office.

History: [S.L. 1970, ch. 140; am.1970, ch. 231; am.1976, ch. 60; am.1996, ch. 28; am.2020, ch. 69]

34-702A. DECLARATION OF INTENT FOR WRITE-IN CANDIDATES. (1) No write-in vote for any office in a primary, special, or general election shall be counted unless a completed declaration of intent form has been filed indicating that the person desires the office and is legally qualified to assume the duties of said office if elected. The declaration of intent shall be filed with the secretary of state if for a federal, state, or legislative district office and with the county clerk if for a county or party precinct committeeman office. Such declaration of intent shall be filed no later than the ninth Friday before the day of election. For a write-in candidate for president, the declaration shall include a certification of the write-in candidate's vice presidential and presidential electors, all of whom must be qualified to serve in their respective offices. The secretary of state shall prescribe the form for said declarations.

(2) In those counties that utilize optical scan ballots, an elector shall not place on the ballot a sticker bearing the name of a person or use any other method or device, except writing, to vote for a person whose name is not printed on the ballot.

History: [S.L. 1983, ch. 213; am.1992, ch. 176; am.1993, ch. 313; am.1999, ch. 221; am.2001, ch. 272; am.2010, ch. 162; am.2020, ch. 69; am. 2021, ch. 272; am. 2021, ch. 325; am. 2023, ch. 249]

34-703. NOMINATION AT PRIMARY. (1) All political party candidates for United States senator and representative in congress and all political party candidates for elective state, district and county offices, except candidates for judicial office, at general elections shall be nominated at the primary elections, or shall have their names placed on the general election ballot as provided by law, and shall comply with the provisions of this act.

(2) All candidates for judicial office shall be nominated or elected at the primary election, as provided by section 34-1217, *Idaho Code*.

(3) Independent candidates shall not be voted on at primary elections.

History: [S.L. 1971, ch. 5; am.1972, ch. 46; am.1976, ch. 60]

34-704. DECLARATION OF CANDIDACY. (1) Any person legally qualified to hold such office is entitled to become a candidate and file his declaration of candidacy. Each political party candidate for precinct, state, district or county office shall file his declaration of candidacy in the proper office between 8:00 a.m. on the twelfth Monday preceding the primary election and 5:00 p.m. on the tenth Friday preceding the primary election. All political party candidates shall declare their party affiliation in their declaration of candidacy and shall be affiliated with a party at the time of filing. A candidate shall be deemed affiliated with the political party if the candidate submits a party affiliation form along with the declaration of candidacy to the filing official. The filing official shall reject any declaration of candidacy for partisan office in a primary election from candidates who are not affiliated with a political party. Candidates for nonpartisan office shall file during the period provided for in this section.

(2) Candidates who file a declaration of candidacy under a party name and are not nominated at the primary election shall not be allowed to appear on the general election ballot under any other political party name, nor as an independent candidate.

(3) Independent candidates shall file their declaration of candidacy in the manner provided in section 34-708, *Idaho Code*.

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(4) All information in declarations of candidacy shall be made publicly available upon request, except that the Idaho residential street address and telephone number of a judicial officer may be exempt from disclosure pursuant to sections 19-6002 [19-6202] and 74-106(30), *Idaho Code*].

History: [S.L. 1971, ch. 5; am.1971, ch. 188; am.1972, ch. 46; am.1972, ch. 346; am.1975, ch. 174; am.1976, ch. 60; am.1979, ch. 309; am.1983, ch. 213; am.1984, ch. 8; am.1984, ch. 173; am.1989, ch. 70; am.2003, ch. 48; am.2012, ch. 211; am. 2022, ch. 305; am. 2023, ch. 179]

34-705. WITH WHOM DECLARATIONS FILED. (1) All candidates for county offices, whether political party candidates or independent candidates, and all political party candidates for precinct offices shall file their declarations of candidacy with the county clerk of their respective counties. All candidates for district, state and federal offices shall file their declarations of candidacy with the secretary of state.

(2) The secretary of state shall certify to the county clerks, within ten (10) days after the filing deadline, the names of the political party candidates who filed for federal, state and district offices and are qualified for placement on the ballot.

(3) The secretary of state shall certify the name of a candidate being appointed by the appropriate central committee pursuant to section 34-714, *Idaho Code*, by no later than the next business day after the appointment is received in the secretary of state's office, if received after the certification of candidates to the county clerks under subsection (2) of this section.

History: [S.L. 1971, ch. 5; am. 1971 (E.S.), ch. 9; am. 1976, ch. 60; am. 2019, ch. 96]

34-706. NOTIFICATION TO PARTIES. Within three (3) days after the deadline for filing declarations of political party candidacy the county clerk shall notify the county central committee of each political party of the candidates who have filed for county and precinct offices under the party name and are qualified.

Within three (3) days after the deadline for filing declarations of political party candidacy the secretary of state shall notify the legislative district central committee of each political party of the legislative candidates who have filed under the party name and are qualified.

Within three (3) days after the deadline for filing declarations of political party candidacy the secretary of state shall notify the state central committee of each political party of the candidates who have filed for federal and state offices under the party name and are qualified.

History: [S.L. 1971, ch. 5; am.1971, ch. 188; am.1971, 1st E.S., ch. 9; am.1976, ch. 60; am.1989, ch. 70]

34-707. PARTY CONVENTIONS. A state convention shall be held by each political party in each election year at a time and place determined by the state central committee. The state central committee chairman shall preside and cause notice to be given to each legislative district central committee and each county central committee at the earliest possible date.

Each state convention shall write and adopt rules and regulations governing the conduct of their respective conventions.

At their convention each political party may:

(1) Adopt and write a party platform.

(2) Elect any desired officers not otherwise provided for by law.

(3) In the year of presidential elections (a) elect delegates to the national convention in the manner prescribed by national party rules; (b) elect a national committeeman and a national committeewoman; and (c) select presidential electors.

(4) Adopt rules, regulations and directives regarding party policies, practices and procedures.

History: [S.L. 1970, ch. 140; am.1971, ch. 5; am.1971, 1st E.S., ch. 9; am.1972, ch. 346; am.1973, ch. 122; am.1980, ch. 236; am.2003; am.94]

34-708. INDEPENDENT CANDIDATES. (1) No person may offer himself as an independent candidate at the primary election.

(2) Any person who desires to offer himself as an independent candidate for federal, state, district, or county office may do so by complying strictly with the provisions of this section. In order to be recognized as an independent candidate, each such candidate must file with the proper officer as provided by section 34-705, *Idaho Code*, a declaration of candidacy as an independent candidate, during the period specified in section 34-704, *Idaho Code*. Such declaration must state that he is offering himself as an independent candidate, must declare that he has no political party affiliation, and must declare the office for which he seeks election. Each such declaration must be accompanied by a petition containing the following number of signatures of qualified electors:

(a) One thousand (1,000) for any statewide office;

(b) Five hundred (500) for any congressional district office;

(c) Fifty (50) for any legislative district office;

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(d) Five (5) for any county office.

(3) Signatures on the petitions required in this section shall be verified in the manner prescribed in Section 34-1807, *Idaho Code*, on a form similar to that used for recall petitions under chapter 17, title 34, *Idaho Code*, as prescribed by the secretary of state.

(4) If all of the requirements of this section have been met, the proper officer shall cause the name of each independent candidate who has qualified to be placed on the general election ballot, according to instructions of the secretary of state.

History: [S.L. 1976, ch. 60; am.1979, ch. 309; am.1995, ch. 115; am.1996, ch. 28; am.2003, ch. 293; ; am. 2021, ch. 272]

34-708A. INDEPENDENT CANDIDATES FOR PRESIDENT AND VICE-PRESIDENT. (1) Persons who desire to be independent candidates for the offices of president and vice-president, must file declarations of candidacy as independent candidates during the period set forth in section 34-704, *Idaho Code*. Such declarations must state that such persons are offering themselves as independent candidates and must declare that they have no political party affiliation. The declarations shall have attached thereto a petition signed by one thousand (1,000) qualified electors.

(2) The candidates for president and vice-president shall be considered as candidates for one (1) office, and only one (1) such petition need be filed for both offices.

(3) Signatures on the petitions required in this section shall be verified in the manner prescribed in Section 34-1807, *Idaho Code*, on a form similar to that used for recall petitions under chapter 17, title 34, *Idaho Code*, as prescribed by the secretary of state; except that the petition circulators are not required to be Idaho residents.

History: [S.L. 1977, ch. 14; am.1979, ch. 309; am.1985, ch. 42; am.1987, ch. 262; am.1996, ch. 28; am.2011, ch. 285; ; am. 2021, ch. 208; am. 2021, ch. 272]

34-709–34-710. [REPEALED: AM. 1971, 1st E.S., ch. 9]

34-711. CERTIFICATION OF CANDIDATES FOR PRESIDENT, VICE PRESIDENT, AND PRESIDENTIAL ELECTORS.

The state chairman of each political party shall certify the names of the presidential and vice-presidential candidates and presidential electors to the secretary of state on or before September 1, unless a five (5) day extension is granted by the secretary of state in order for them to appear on the general election ballot. The secretary of state shall certify such candidates to the county clerks at the same time as certification of political party candidates nominated for state and federal offices by the voters in the primary election.

History: [S.L. 1970, ch. 140; am.1972, ch. 346; am.1976, ch. 60; am.1984; Ch. 131; am.1985, ch. 42; am.2003, ch. 94]

34-711A. CERTIFICATION OF INDEPENDENT PRESIDENTIAL ELECTORS. Independent candidates who have qualified for ballot status pursuant to section 34-708A, *Idaho Code*, shall certify the names of presidential electors to the secretary of state on or before September 1, in order for them to appear on the general election ballot. The secretary of state shall certify the independent presidential electors, and the independent candidates for president and vice-president, to the county clerks on or before September 7.

History: [S.L. 1977, ch. 14; am.1984, ch. 131; am.1985, ch. 42]

34-712. SAMPLE FORM FOR PRIMARY ELECTION BALLOTS. The secretary of state shall provide the sample form of the primary election ballot to each of the county clerks no later than forty (40) days prior to the primary. The sample ballot shall contain the proper political party candidates to be voted upon within the county whose declarations were filed and certified in the office of the secretary of state with instructions for the placing of political party candidates seeking the political party nomination for county and precinct offices. If a county is within more than one (1) legislative district, the secretary of state shall provide a sample ballot for each legislative district which includes part of the county.

History: [S.L. 1970, ch. 140; am.1971, ch. 188; am.1971, 1st E.S., ch. 9; am.1972, ch. 346; am.1976, ch. 60]

34-713. PREPARATION OF PRIMARY BALLOTS. (1) Upon receipt of the sample ballot and instructions from the secretary of state, each county clerk shall print and prepare the official primary ballots for the forthcoming election. The printing of the ballots shall be a county expense and paid out of the county treasury.

(2) Each county clerk shall cause to be published on the earliest date possible in May the names of all the political party candidates who shall appear on the primary ballot. The names shall be listed alphabetically under each particular office title.

History: [S.L. 1970, ch. 140; am.1975, ch. 174; am.1976, ch. 60; am.1979, ch. 309; am.2012, ch. 33 am. 2015, ch. 292; am. 2023, ch. 208]

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34-714. FILLING VACANCIES IN SLATE OF POLITICAL PARTY CANDIDATES OCCURRING PRIOR TO PRIMARY ELECTION. (1) Vacancies that occur before the primary election in the slate of candidates of any political party because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate, shall be filled in the following manner if only one (1) candidate declared for that particular office:

- (a) By the county central committee if the vacancy occurs for the office of precinct committeeman or for a county office.
- (b) By the legislative district central committee if the vacancy occurs for the office of state representative or state senator.
- (c) By the state central committee if the vacancy occurs for a federal or state office.

The county and legislative district central committee shall fill the vacancy within fifteen (15) days from the date the vacancy occurred. The state central committee shall fill the vacancy within thirty (30) days from the date the vacancy occurred.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the primary ballot, file a declaration of candidacy and pay the required filing fee.

(2) No central committee shall fill any vacancy which occurs within ten (10) days prior to the primary election. Vacancies which occur during this ten (10) day period because of the death, disqualification for any reason, or withdrawal from the nomination process by the candidate shall be filled according to the provisions of section 34-715, *Idaho Code*.

(3) Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

History: [S.L. 1970, ch. 140; am.1971, 1st E.S., ch. 9; am.1975, ch. 21; am.1976, ch. 60; am.1989, ch. 70; am.1996, ch. 28; am.1999, ch. 222]

34-715. FILLING OF VACANCIES OCCURRING BEFORE OR AFTER PRIMARY ELECTION. Vacancies that occur during the ten (10) day period before a primary election, or after the primary election but at least ten (10) days before the general election in the slate of candidates of any political party, except candidates for precinct committeeman, shall be filled in the following manner:

- (1) By the county central committee if it is a vacancy by a candidate for a county office.
- (2) By the legislative district central committee if it is a vacancy by a candidate for the state legislature.
- (3) By the state central committee if it is a vacancy by a candidate for a federal or a state office.

The county and legislative district central committee shall fill the vacancy within fifteen (15) days from the date the vacancy occurred. The state central committee shall fill the vacancy within thirty (30) days from the date the vacancy occurred.

Any political party candidate so appointed by the proper central committee must, in order to have his name on the general ballot, file a declaration of candidacy and pay the required filing fee.

Vacancies that occur in a slate of candidates for precinct committeeman within ten (10) days prior to the primary election shall not be filled.

History: [S.L. 1970, ch. 140; am.1972, ch. 346; am.1976, ch. 60; am.1977, ch. 21; am.1983, ch. 213; am.1996, ch. 28; am.1999, ch. 222]

34-716. VACANCIES OF CANDIDATES FOR NONPARTISAN OFFICES OCCURRING BEFORE GENERAL ELECTION NOT FILLED—EXCEPTIONS—JUDICIAL OFFICES. (1) All vacancies of candidates for nonpartisan offices that occur after the primary election but before the general election, except vacancies in the offices of nominated candidates for judicial office which shall be filled as provided in this section, shall not be filled.

(2) If a candidate for judicial office has received a majority of the votes cast for the office at the primary election, he shall be deemed elected as provided by section 34-1217, *Idaho Code*. Thereafter, if the judge-elect dies, moves from the state, or otherwise becomes ineligible to serve in the judicial office, the secretary of state shall declare that a vacancy exists in the judicial office, but that no other candidate for the office will be offered at the general election. The vacancy shall be filled as provided by law, as if the judge-elect had already assumed office.

(3) If three (3) or more candidates sought a judicial office at the primary election, and no candidate for the judicial office received a majority of the votes cast for the office at the primary election, and either of the candidates certified to be a nominee at the general election dies, moves from the state, or otherwise becomes ineligible to serve in the judicial office, the secretary of state shall cause the name or names of the candidate or candidates receiving the next highest number of votes cast at the primary election after the two (2) candidates certified, to be certified as nominees for the judicial office at the general election, so that two (2) candidates shall be offered for each judicial office to be filled. In the event only one (1) vacancy on the general election ballot is to be filled by the procedure outlined in this subsection, and there exists a tie among two (2) or more judicial candidates receiving the next highest number of votes, such candidates, or their personal

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designees, shall meet in the office of the secretary of state at a time fixed by him upon ten (10) days written notice to such interested candidates, or their designees, and a candidate to fill each such vacancy on the general election ballot shall be selected by lot from the candidates receiving the same number of votes at the primary election. The secretary of state shall cause the name of the persons so selected to appear on the general election ballot.

History: [S.L. 1970, ch. 140; am.1972, ch. 333]

34-717. WITHDRAWAL OF CANDIDACY. (1) A candidate for nomination or candidate for election to a partisan office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. The filing officer shall immediately notify the proper central committee of the party, if any, of the individual withdrawing. A candidate may not withdraw later than forty-five (45) days before an election, except in the case of a primary election, when the deadline shall be no later than the eighth Friday preceding the primary election, or a general election, when the deadline shall be no later than September 7. Filing fees paid by the candidate shall not be refunded.

(2) Any candidate who has filed a statement of withdrawal pursuant to this section shall not be allowed to be appointed to fill a vacancy unless such vacancy occurs because of the death of a previous candidate.

History: [S.L. 1983, ch. 213; am.1999, ch. 222; am.2011, ch. 11; am.2015, ch. 155]

34-718–34-722. [REPEALED: AM. 1972, ch. 333]

34-723–34-730. [RESERVED]

34-731–34-738. [REPEALED: AM. 2023, ch. 208]

34-739. [REPEALED: AM. 2012, ch. 33]

34-740. RULES. The secretary of state as chief election officer may adopt such rules as are necessary to facilitate the operation, accomplishment and purpose of this chapter.

History: [S.L. 1975, ch. 174; am.2015, ch. 292]

Chapter 8: Registration of Electors [REPEALED]

34-801–34-818. [REPEALED: AM. 1970, ch. 140]

(New law contained Chapter 4 herein)

Chapter 9: Ballots

34-901. OFFICIAL ELECTION BALLOT IDENTIFICATION. (1) The county clerk shall provide that all election ballots are identified as official. Each ballot shall have upon its face the date and year of the election in which it is used and the words “**Official Election Ballot.**”

(2) The clerk in a county that utilizes optical scan ballots shall ensure that:

- (a) The official election ballot identification is printed on each ballot issued; and
- (b) Each ballot contains a unique marking to prevent duplication of official election ballots.

(3) The clerk in a county that utilizes paper or other ballots shall provide an official election stamp of such character or device and of such material as the board of county commissioners may select. In the event such stamp is lost, destroyed or unavailable upon election day, the distributing clerk shall initial each ballot and write “**stamped**” upon the ballot in the appropriate place.

History: [S.L. 1970, ch. 140; am.2013, ch. 285]

34-902. COUNTY COMMISSIONERS TO PROVIDE SUFFICIENT BALLOTS AND BALLOT BOXES FOR EACH POLLING PLACE AT ALL ELECTIONS. The board of county commissioners shall authorize that a suitable number of ballots be printed for each polling place. The county clerk shall cause such ballots to be printed upon receiving final instructions from the secretary of state, and the cost shall be paid from the county treasury. The board of county commissioners shall authorize the printing of ballots in the same manner for special elections when such special election is ordered by the governor or provided by law.

The board of county commissioners shall also provide a suitable number of ballot boxes for each polling place within the county, and shall have complete authority to determine the specifications for such ballot boxes.

History: [S.L. 1970, ch. 140; am.1975, ch. 174; am.1979, ch. 309; am.2011, ch. 11]

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34-903. SECRETARY OF STATE TO PRESCRIBE FORM AND CONTENTS OF ALL BALLOTS AND RELATED DOCUMENTS. (1) The secretary of state shall, in a manner consistent with the election laws of this state, prescribe the form for all ballots, absentee ballots, diagrams, sample ballots, ballot labels, voting machine labels or booklets, certificates, notices, declarations of candidacy, affidavits of all types, lists, applications, poll books, tally sheets, registers, rosters, statements, and abstracts if required by the election laws of this state.

(2) The secretary of state shall prescribe the arrangement of the matter to be printed on each kind of ballot and label, including:

(a) The placement and listing of all offices, candidates and issues upon which voting is statewide, which shall be uniform throughout the state.

(b) The listing of all other candidates required to file with him, and the order of listing all offices and issues upon which voting is not statewide.

(3) The names of candidates for legislative or special district offices shall be printed only on the ballots and ballot labels furnished to voters of such district.

(4)(a) The names of candidates that appear on election ballots for federal, state, county, and city offices shall be rotated in the manner determined by the secretary of state.

(b) The names of candidates that appear on election ballots for other offices shall be rotated in the manner determined by the secretary of state for any political entity whose number of registered voters at the last general election exceeds one hundred thousand (100,000).

(c) The order of candidates for office in all other elections shall be determined by applying the first letter of each candidate's last name to a random alphabet selected prior to each election by the secretary of state.

(5) No candidate's name may appear on a ballot for more than one (1) partisan office or one (1) judicial office, except that a candidate for precinct committeeman may seek one (1) additional office upon the same ballot. The provisions of this subsection shall not apply to the election of electors of president and vice president of the United States.

History: [S.L. 1970, ch. 140; am. 1971, ch. 189; am. 1987, ch. 313; am. 2011, ch. 285; am. 2012, ch. 211; am. 2015, ch. 282; am. 2022, ch. 99]

34-903A. NAME ON BALLOT. Should it appear to the secretary of state or county clerk that a person has filed as a candidate and that such person has changed their name and has changed their name to words that convey or attempt to convey a political message, the secretary of state or county clerk shall make an inquiry to determine: (i) if such person has changed their name; and (ii) if such name contains words that convey a political message to voters on the ballot; and (iii) if an explanation on the ballot would clarify the ballot and would assist in eliminating voter confusion. If the secretary of state or county clerk finds affirmatively that all three (3) criteria have been met, the secretary of state or county clerk shall be required to note on the ballot immediately following the name that appears to be a political proposition the following statement in parentheses: (A person, formerly known as), inserting in the blank within the parentheses the name by which the candidate who changed their name was formerly known.

History: [S.L. 2008, ch. 408]

34-903B. RANKED CHOICE VOTING PROHIBITED. (1) No county elections office shall use ranked choice voting or instant runoff voting to conduct an election or nomination of any candidate in this state for any local government, statewide, or federal elective office.

(2) For the purpose of this section:

(a) “**Local government**” means any municipality, county, school district, special taxing district, or any other regional or local district or unit of government that is governed by one (1) or more elected officials.

(b) “**Ranked choice voting**” or “**instant runoff voting**” means a method of casting and tabulating votes in which:

(i) Voters rank candidates in order of preference;

(ii) Tabulation proceeds in rounds such that in each round either a candidate or candidates are elected or the last-place candidate is defeated;

(iii) Votes are transferred from elected or defeated candidates to the voters' next ranked candidate or candidates in order of preference; and

(iv) Tabulation ends when a candidate receives the majority of votes cast or the number of candidates elected equals the number of offices to be filled.

(3) Any local government ordinance in conflict with this section is void

History: [S.L. 2023, ch. 135]

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34-904. PRIMARY ELECTION BALLOTS. (1) There shall be a separate primary election ballot for each political party upon which its ticket shall be printed; however, a county may use a separate ballot for the office of precinct committeeman. All candidates who have filed their declarations of candidacy and are subsequently certified shall be listed under the proper office titles on their political party ticket. The secretary of state shall design the primary election ballot to allow for write-in candidates when needed.

(2) The office titles shall be listed in order beginning with the highest federal office and ending with precinct offices. The secretary of state has the discretion and authority to arrange the classifications of offices as provided by law.

(3) It is not necessary to print a primary ballot for a political party which does not have candidates for more than half of the federal or statewide offices on the ballot if no more than one (1) candidate files for nomination by that party for any of the offices on the ballot. The secretary of state shall certify that no primary election is necessary for that party if such is the case and shall certify to the county clerk the names of candidates for that party for the general election ballot only.

History: [S.L. 1970, ch. 140; am.1971, ch. 189; am.1972, ch. 130; am.1983, ch. 213; am.2001, ch. 272; am.2011, ch. 319; am.2012, ch. 57; am.2020, ch. 69]

34-904A. ELIGIBILITY TO VOTE IN PRIMARY ELECTIONS. (1) Except as provided in subsection (2) of this section, an elector who has designated a party affiliation shall be allowed to vote only in the primary election of the political party for which such an elector is so registered.

(2) A political party qualified to participate in elections pursuant to section 34-501, *Idaho Code*, may, no later than the last Tuesday in the November prior to a primary election, notify the secretary of state in writing that the political party elects to allow, in addition to those electors who have registered with that political party, any of the following to vote in such party's primary election:

(a) Electors designated as unaffiliated;

(b) Electors registered with a different political party qualified to participate in elections pursuant to section 34-501, *Idaho Code*. In the event a state chairman of a political party elects to allow electors to vote in that party's primary election pursuant to this paragraph, the state chairman shall identify which political parties' registrants are allowed to vote in such primary election.

(3) In the event that more than one (1) political party allows unaffiliated electors to vote in their party's primary election, an unaffiliated elector shall designate which political party's primary election the elector chooses to vote in by declaring such designation to the poll worker or other appropriate election personnel, who shall then record in the poll book the elector's choice. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, *Idaho Code*.

(4) In the event no more than one (1) political party allows unaffiliated electors to vote in their party's primary election, an "unaffiliated" elector may designate that political party's primary election as the election the elector chooses to vote in by declaring such designation to the poll worker or other appropriate election personnel, who shall then record in the poll book the elector's choice. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, *Idaho Code*.

(5) An unaffiliated elector having declared such designation as provided for in subsection (3) or (4) of this section shall not be permitted to vote in the primary election of any other party held on that primary election date.

(6) If an unaffiliated elector does not declare a choice of political party's primary election ballot, the elector shall not be permitted to vote in any political party's primary election but shall receive a nonpartisan ballot when such a ballot is available.

(7) In the event that one (1) or more political parties allow electors affiliated with a different political party to vote in their primary election pursuant to this section, an elector affiliated with a different political party shall declare to the poll worker or other appropriate election personnel in which primary election ballot such elector wishes to vote. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, *Idaho Code*.

(8) Provided that all other provisions of this act are complied with, nothing in this section shall be construed to prohibit an elector designated as unaffiliated from voting in the primary election of a different party held in subsequent years. Notwithstanding any other provision of this act, if a political party allows unaffiliated electors to vote in that political party's primary election pursuant to this section, a vote by an unaffiliated elector in such primary election shall not change or affect the elector's unaffiliated designation.

History: [S.L. 2011, ch. 319; am.2015, ch. 292; am. 2023, ch. 208]

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34-905. NONPARTISAN BALLOTS FOR ELECTION OF JUSTICES OF SUPREME COURT, JUDGES OF THE COURT OF APPEALS, AND DISTRICT JUDGES. There shall be a single nonpartisan ballot for the election of justices of the supreme court, judges of the court of appeals, and district judges. The names of all candidates for each office shall be listed under the proper office title by the secretary of state. A similar ballot shall be prepared for any general election, whenever it shall be necessary to conduct an election for judicial office.

History: [S.L. 1970, ch. 140; am.1971, 1st E.S., ch. 9; am. 2023, ch. 210]

34-905A. NONPARTISAN BALLOTS FOR ELECTION OF HIGHWAY DISTRICT COMMISSIONERS—PLURALITY REQUIRED FOR ELECTION. There shall be a single nonpartisan ballot for the election of highway district commissioners in each highway district. The ballot shall designate the highway district commissioners subdistrict and the names of all candidates for that office shall be listed thereon. The ballot shall also contain the words: “**Vote for One,**” followed by the names of the candidates for the office. The candidate with the most votes shall be declared the successful candidate.

History: [S.L. 1972, ch. 345]

34-906. BALLOTS FOR GENERAL ELECTIONS. (1) There shall be a single general election ballot on which the complete ticket of each political party shall be printed. Each political party ticket shall include that party’s nominee for each particular office. The secretary of state shall design the general election ballot to allow for write-in candidates when needed.

(2) The office titles shall be listed in order beginning with the highest federal office. The secretary of state has the discretion and authority to arrange the above classifications of offices as provided by law.

(3) At any general election at which the electors are to vote upon constitutional amendments or other issues, the secretary of state shall provide separate general election ballot forms on which such amendments and issues shall be printed.

History: [S.L. 1970, ch. 140; am.1971, ch. 189; am.1977, ch. 12; am.2020, ch. 69]

34-907. [REPEALED: AM. 2002, ch. 1]

34-907A. [REPEALED: AM. 2007, ch. 202]

34-907B. [REPEALED: AM. 2007, ch. 202]

34-908. EACH BALLOT TO CARRY OFFICIAL ELECTION BALLOT IDENTIFICATION ON OUTSIDE—MARKING OF BALLOT BY VOTER. (1) Every ballot used at any primary, general or special election shall be marked on the outside with the official election ballot identification before it is given to the voter. At this time the election official distributing the ballots shall give the voter instructions in regard to folding the ballot after he has voted.

(2) The voter shall mark his ballot with a cross (X) or other mark sufficient to show his intent in the place provided after the name of the candidate for whom he intends to vote for each office.

(3) If a person votes by writing the name of a candidate on the ballot, such act shall constitute a vote for the person’s name who appears without the necessity of placing a mark after the name written on the ballot, unless such a mark is required by a vote tally system.

History: [S.L. 1970, ch. 140; am.1988, ch. 293; am.2013, ch. 285]

34-909. GENERAL ELECTION SAMPLE BALLOTS FORWARDED TO COUNTIES BY SECRETARY OF STATE. (1) The secretary of state, no later than September 7, shall provide the necessary general election sample ballot layout to each of the county clerks.

(2) The sample ballot layout shall contain the proper office titles, order of offices and ballot layout for the general election, with instructions for placement of candidates seeking election for federal, state, legislative, county and precinct offices and candidates seeking judicial office or retention. If a county is within more than one (1) legislative district, the secretary of state shall provide instructions on the requirements for a separate ballot for each legislative district that is within the county.

(3) The secretary of state shall certify to the county clerks the names and political party of the candidates qualified for placement on the general election ballot for all federal, state and legislative district offices on the sample ballots, along with any judicial candidates, by no later than the ninth Friday prior to the general election.

(4) The secretary of state shall certify the name of a candidate being appointed by the appropriate central committee as provided by section 34-715, *Idaho Code*, by no later than the next business day after the appointment is received in the secretary of state’s office, if received after the certification of candidates to the county clerks under subsection (3) of this section.

History: [S.L. 1970, ch. 140; am. 1976, ch. 60; am. 1984, ch. 131; am. 1985, ch. 42; am. 2019, ch. 96.]

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34-910. DUTY OF COUNTY CLERK TO FURNISH SUFFICIENT BALLOTS TO EACH VOTING PRECINCT—RECORD OF NUMBER OF BALLOTS PRINTED AND FURNISHED. (1) It shall be the duty of the county clerk to furnish and cause to be delivered a sufficient number of election ballots to the judges of elections of each voting precinct. The ballots shall be delivered to the polling place within the precinct on or before the opening of the polls for the election together with the official election ballot identification in sealed packages. Upon receipt of the ballots and supplies, the chief judge of elections or other designated judge must return a written receipt to the county clerk.

(2) The county clerk shall keep a record of the number of ballots printed and furnished to each polling place within the county and preserve the same for one (1) year.

History: [S.L. 1970, ch. 140; am.2011, ch. 285; am.2013, ch. 285]

34-911. COUNTY CLERK TO PREPARE FULL INSTRUCTIONS FOR THE GUIDANCE OF VOTERS AT ELECTIONS. The county clerk shall prepare full instructions for the guidance of voters at such elections, as to obtaining ballots, as to the manner of marking them, and as to obtaining new tickets in place of those spoiled, and provide sample ballots. The form and manner of display of the above mentioned instructions shall be prescribed by the secretary of state and be uniform throughout the state.

History: [S.L. 1970, ch. 140]

34-912. PROCEDURE FOR CORRECTION OF BALLOTS WHEN VACANCY OCCURS AFTER PRINTING—NOTICE. When any vacancy occurs after the printing of the ballots and is filled as provided by law, the county clerk shall thereupon have printed a sufficient number of stickers containing the name of the candidate designated to fill the vacancy and shall deliver them to the judges of elections of the precincts interested therein.

The distributing clerk shall affix such stickers on the ballot before it is given to the elector. The sticker shall be placed over the name of the previous candidate. If the vacancy occurs after the deadline for filling the same, the distributing clerk shall cross the name of such candidate off the ballot and no votes shall be cast for the candidate. The county clerk shall notify the precincts of this authorization as soon as a vacancy occurs.

History: [S.L. 1970, ch. 140]

34-913. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS. (1) Notwithstanding any other provision of law, on and after July 1, 2021, any taxing district that proposes to submit any question to the electors of the district that would authorize any bonded indebtedness must provide a brief official statement setting forth in simple, understandable language information on the proposal substantially as follows:

- (a) The purpose for which the bonds are to be used, including but not necessarily limited to a description of the facility or project that will be financed, in whole or in part, by the sale of the bonds; the date of the election; and the principal amount of the bonds to be issued;
- (b) The anticipated interest rate on the proposed bonds based on current market rates and a maximum interest rate if a maximum is specified in the question to be submitted to electors;
- (c) The total amount to be repaid over the life of the bonds based on the anticipated interest. Such total shall reflect three (3) components: a total of the principal to be repaid; a total of the interest to be paid; and the sum of both;
- (d) The estimated average annual cost to the taxpayer of the proposed bond, in the format of “**A tax of \$_____ per \$100,000 of taxable assessed value, per year, based on current conditions**”;
- (e) The length of time, reflected in months or years, in which the proposed bonds will be paid off or retired; and
- (f) The total existing indebtedness, including interest accrued, of the taxing district.

(2)(a) The formula for calculating the estimated average annual cost to the taxpayer shall be as follows:

$((\text{Bond Total}/\text{Taxable Value}) \times 100,000)/\text{Duration} = \text{estimated average annual cost to taxpayer}$; and

(b) The elements of which are defined as:

- (i) “**Bond total**” means the total amount to be bonded, from subsection (1)(c) of this section as based on the anticipated interest rate in subsection (1)(b) of this section;
- (ii) “**Duration**” means the time, in years, from subsection (1)(e) of this section; and
- (iii) “**Taxable value**” means the most recent total taxable value for property for the applicable taxing district, which shall be obtained from the applicable county treasurer or assessor’s office.

(3) The official statement must be made a part of the ballot prior to the location on the ballot where a person casts a vote and must be included in the official notice of the election.

(4) In order to be binding, a ballot question to authorize a bond must include the information and language required by this section in its official statement.

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(5) Any mass communication, whether in printed form, audio, visual, electronic, or any other medium, sent by a taxing district to twenty (20) or more voters and any media presented by a taxing district for public viewing, including posters, websites, or social media, regarding its proposed bond must include the information required by subsection (1)(b) through (f) of this section.

(6) Upon a determination by a court, pursuant to section 34-2001A, *Idaho Code*, that the taxing district failed to comply with the provisions of this section, the court must declare the outcome of the ballot question invalid and award court costs and fees to the prevailing party.

History: [S.L. 2021, ch. 288; am. 2023, ch. 282]

34-914. DISCLOSURES IN ELECTIONS TO AUTHORIZE A LEVY. (1) Notwithstanding any other provision of law, on and after July 1, 2021, any taxing district that proposes to submit any question to the electors of the district that would authorize any levy, except for the levies authorized for the purposes provided in sections 63-802(1)(h) and 33-802(4), *Idaho Code*, and except for levies relating to bonded indebtedness where section 34-913, *Idaho Code*, applies, must include in the ballot question, or in a brief official statement on the ballot but separate from the ballot question, a disclosure setting forth in simple, understandable language information on the proposal substantially as follows:

(a) The purpose for which the levy shall be used; the date of the election; and the dollar amount estimated to be collected each year from the levy;

(b) The estimated average annual cost to the taxpayer of the proposed levy, in the form of “**A tax of \$_____ per \$100,000 of taxable assessed value, per year, based on current conditions.**” If the taxing district proposing the levy has an existing levy of the same type that is set to expire at the time that the proposed levy will begin, an additional statement may be provided along the following lines: “**The proposed levy replaces an existing levy that will expire on _____ and that currently costs \$_____ per \$100,000 of taxable assessed value.**” The statement shall also disclose that, if the proposed levy is approved, the tax per \$100,000 of taxable assessed value is either: (i) not expected to change or (ii) is expected to increase or decrease the tax by \$_____ per \$100,000 of taxable assessed value. The dollar amounts referenced in this paragraph shall be calculated by multiplying the expected levy rate by one hundred thousand dollars (\$100,000);

(c) The length of time, reflected in months or years, in which the proposed levy will be assessed; and

(d) If an existing levy is referenced, the expiration date of the levy must also be provided.

(2) The information called for in subsection (1) of this section must be placed immediately above the location on the ballot where a person casts a vote and must also be included in like manner in the official notice of the election.

(3) In order to be binding, a ballot question to authorize a levy must include the information and language required by this section in its official statement. The ballot question may not include other information or language regarding any other bond, levy, or matter, whether previous, current, or proposed, except as authorized under this section.

(4) Any mass communication, whether in printed form, audio, visual, electronic, or any other medium, sent by a taxing district to twenty (20) or more voters and any media presented by a taxing district for public viewing, including posters, websites, or social media, regarding its proposed levy must include the information required by subsection (1)(b) and (c) of this section.

(5) Upon a determination by a court, pursuant to section 34-2001A, *Idaho Code*, that the taxing district failed to comply with the provisions of this section, the court must declare the outcome of the ballot question invalid and award court costs and fees to the prevailing party.

History: [S.L. 2021, ch. 288; am. 2023, ch. 282]

Chapter 10: Absentee Voting

34-1001. VOTING BY ABSENTEE BALLOT AUTHORIZED. Any registered elector of the state of Idaho may vote at any election by absentee ballot as herein provided.

History: [S.L. 1970, ch. 140]

34-1002. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, the elector’s home address, county, and address to which such ballot shall be forwarded.

(2) In order to provide the appropriate primary election ballot to electors, in the event a political party elects to allow unaffiliated electors to vote in that party’s primary election pursuant to section 34-904A, *Idaho Code*, the elector shall designate, as part of the written application for a ballot for primary elections, the elector’s party affiliation or designation as “**unaffiliated.**” The application shall contain checkoff boxes for unaffiliated electors by which such electors shall indicate for which party’s primary ballot the unaffiliated elector chooses to vote. Provided however, that no political party’s primary

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election ballot shall be provided to an unaffiliated elector for a political party that has not elected to allow unaffiliated electors to vote in that political party's primary election pursuant to section 34-904A, *Idaho Code*. If an unaffiliated elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot.

(3) In order to provide the appropriate primary election ballot to electors, in the event one (1) or more political parties elect to allow electors affiliated with a different political party to vote in that party's primary election, the application shall contain checkoff boxes by which such electors may indicate the primary ballot in which the elector wishes to vote.

(4) For electors who are registered to vote as of January 1, 2012, and who remain registered electors, the elector shall designate, as part of the written application for a ballot for the 2012 primary elections, the elector's party affiliation or designation as "**unaffiliated**." The application shall contain checkoff boxes for unaffiliated electors by which such electors shall indicate for which party's primary election ballot the unaffiliated elector chooses to vote, pursuant to section 34-904A, *Idaho Code*. Provided however, that no political party's primary election ballot shall be provided to an unaffiliated elector for a political party that has not elected to allow unaffiliated electors to vote in the party's primary election pursuant to section 34-904A, *Idaho Code*. If an unaffiliated elector does not indicate a choice of political party's primary election ballot, the elector shall receive a nonpartisan ballot. After the 2012 primary election, the county clerk shall record the party affiliation or unaffiliated designation so selected on the application for an absentee ballot as part of such an elector's record within the voter registration system as provided for in section 34-437A, *Idaho Code*.

(5) After the 2012 primary election, electors who remain registered voters and who did not vote in the 2012 primary elections and who make written application for an absentee ballot shall be designated as unaffiliated electors as provided in section 34-404, *Idaho Code*, and such electors shall be given the appropriate ballot for such "**unaffiliated**" designation pursuant to the provisions of this act.

(6) An elector may not change party affiliation or designation as "**unaffiliated**" on an application for absentee ballot. For primary elections, an elector may change party affiliation or designation as "**unaffiliated**" as provided for in section 34-411A, *Idaho Code*.

(7) The application for an absent elector's ballot shall be signed personally by the applicant. The application for a mail-in absentee ballot shall be received by the county clerk not later than 5:00 p.m. on the eleventh day before the election. An application for in-person absentee voting at the absent elector's polling place described in section 34-1006, *Idaho Code*, shall be received by the county clerk not later than 5:00 p.m. on the Friday before the election. Application for an absentee ballot may be made by using a facsimile machine or other electronic transmission.

(8) A person may make application for an absent elector's ballot by use of a properly executed federal postcard application as provided for in the laws of the United States known as uniformed and overseas citizens absentee voting act (UOCAVA, 52 U.S.C. 20301 et seq., as amended). The issuing officer shall keep as a part of the records of such officer's office a list of all applications so received and of the manner and time of delivery or mailing to and receipt of returned ballot.

(9) The county clerk shall, not later than seventy-five (75) days after the date of each general election, submit a report to the secretary of state containing information concerning absentee voters as required by federal law.

History: [S.L. 1970, ch. 140; am. 1972, ch. 157; am. 1973, ch. 304; am. 1976, ch. 353; am. 1987, ch. 167; am. 1994, ch. 122; am. 1995, ch. 215; am. 2002, ch. 236; am. 2003, ch. 48; am. 2010, ch. 332; am. 2011, ch. 319; am. 2013, ch. 135; am. 2016, ch. 137; am. 2019, ch. 96; am. 2020, ch. 286]

34-1002A. EMERGENCY SITUATION ABSENTEE BALLOT—APPLICATION. (1) A registered elector who has not previously requested an absentee ballot for the same election and who is physically unable to vote in person at the elector's designated polling place on the day of the election because of an emergency situation requiring hospitalization of the elector may request an emergency situation absentee ballot by filing an emergency situation absentee ballot application with the county clerk. The secretary of state shall prescribe the form for the emergency situation absentee ballot application.

(a) The emergency application may be submitted to the county clerk up to five (5) days prior to the election but shall be received by the county clerk no later than 5:00 p.m. on the Monday before the election, in order to allow for the coordination of ballot delivery to the requesting elector at the hospital.

(b) The emergency application shall be signed personally by the applicant.

(c) The situation rendering the requesting elector physically unable to vote in person at the polling place must have occurred after 5:00 p.m. on the eleventh day prior to the election, and the applicant must attest to that fact with the applicant's signature.

(2) Regardless of the time of the request, an absentee ballot delivered under this section must be returned to the county clerk's office from which it was received in order to be counted, in accordance with section 34-1005, *Idaho Code*.

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(3) The county clerk shall deem the location of an individual to be an absent elector's polling place, as provided in section 34-1006, *Idaho Code*, solely for the purposes of registering the applicant under section 34-408A, *Idaho Code*, and shall provide the applicant with an emergency situation absentee ballot in the event that the individual who wishes to apply for an emergency situation absentee ballot under this section:

- (a) Was not a registered elector at the time the register closed but became eligible for registration following the closing of the register;
- (b) Was rendered physically unable to register in person on election day by the emergency situation; and
- (c) Was otherwise qualified to request an emergency situation absentee ballot under this section.

History: [S.L. 2020, ch. 286]

34-1003. ISSUANCE OF ABSENTEE BALLOT. (1) Upon receipt of an application for an absent elector's ballot within the proper time, the county clerk receiving it shall examine the records of the county clerk's office to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested and, if found to be so, the county clerk shall arrange for the applicant to vote by absent elector's ballot.

(2) In the case of requests for primary ballots:

(a) Except as provided in paragraph (b) of this subsection, an elector who has designated a political party affiliation shall receive a primary ballot for that political party.

(b) An elector who has designated a political party affiliation pursuant to section 34-404, *Idaho Code*, may receive the primary election ballot of a political party other than the political party such elector is affiliated with if such other political party has provided notification to the secretary of state that identifies the political party such elector is affiliated with, as provided for in section 34-904A(2)(b), *Idaho Code*.

(c) An "**unaffiliated**" elector shall receive the primary ballot for the political party the elector designated in the elector's application for an absentee ballot pursuant to section 34-1002, *Idaho Code*. Provided however, that a political party's ballot shall not be provided to an "**unaffiliated**" elector where that political party has not elected to allow "**unaffiliated**" electors to vote in such party's primary election pursuant to section 34-904A, *Idaho Code*.

(d) If an "**unaffiliated**" elector does not indicate a choice of a political party's primary ballot, the elector shall receive a nonpartisan ballot.

(e) Once an absentee primary ballot is issued to an elector by the county clerk, the county clerk may not issue the same elector a new absentee primary ballot with a different party affiliation than the absentee ballot originally issued to the elector, unless the original absentee ballot type was issued in error by the county clerk.

(3) The absentee ballot may be delivered to the absent elector in the office of the county clerk, by postage prepaid mail or by other appropriate means, including use of a facsimile machine or other electronic transmission. Validly requested absentee ballots for candidates for federal office, where the request is received at least forty-five (45) days before an election, shall be sent no later than forty-five (45) days before that election to all electors who are entitled to vote by absentee ballot.

(4) Pursuant to the uniformed and overseas citizens absentee voting act (UOCAVA, 52 U.S.C. 20301 et seq., as amended) the secretary of state shall establish procedures for the transmission of blank absentee ballots by mail and by electronic transmission for all electors who are entitled to vote by absentee ballot under the uniformed and overseas citizens absentee voting act, and by which such electors may designate whether the elector prefers the transmission of such ballots by mail or electronically. If no preference is stated, the ballots shall be transmitted by mail. The secretary of state shall establish procedures for transmitting such ballots in a manner that shall protect the security and integrity of such ballots and the privacy of the elector throughout the process of transmission.

(5) A political party may supply a witness to accompany the clerk in the personal delivery of an absentee ballot. If the political party desires to supply a witness, it shall be the duty of the political party to supply the names of such witnesses to the clerk no later than forty-six (46) days prior to the election. The clerk shall notify such witnesses of the date and approximate hour the clerk or deputy clerk intends to deliver the ballot.

(6) A candidate for public office or a spouse of a candidate for public office shall not be a witness in the personal delivery of absentee ballots.

(7) An elector physically unable to mark such elector's own ballot may receive assistance in marking such ballot from the officer delivering same or an available person of the elector's own choosing. In the event the election officer is requested to render assistance in marking an absent elector's ballot, the officer shall ascertain the desires of the elector and shall vote the applicant's ballot accordingly. When such ballot is marked by an election officer, the witnesses on hand shall be allowed to observe such marking. No county clerk, deputy, or other person assisting a disabled voter shall attempt to influence the vote of such elector in any manner.

History: [S.L. 1970, ch. 140; am. 1973, ch. 304; am. 1975, ch. 66; am. 1984, ch. 131; am. 1993, ch. 100; am. 1994, ch. 122; am. 1996, ch. 74; am. 2010, ch. 332; am. 2011, ch. 11; am. 2011, ch. 319; am. 2019, ch. 96; ; am. 2021, ch. 323]

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34-1004. MARKING AND FOLDING OF ABSENTEE BALLOT—AFFIDAVIT. Upon receipt of the absent elector's ballot the elector shall thereupon mark and fold the ballot so as to conceal the marking, deposit it in the ballot envelope and seal the envelope securely. In the event an election requires a perforated ballot, the unvoted portion must be deposited in the unvoted ballot envelope and sealed. The ballot envelopes must then be deposited in the return envelope and sealed securely.

The elector shall then execute an affidavit on the back of the return envelope in the form prescribed, provided however, that such affidavit need not be notarized.

History: [S.L. 1970, ch. 140]

34-1005. RETURN OF ABSENTEE BALLOT. (1) The return envelope shall be mailed or delivered to the officer who issued the same; provided, that an absentee ballot must be received by the issuing officer by 8:00 p.m. on the day of election before such ballot may be counted.

(2) Upon receipt of an absent elector's ballot the county clerk of the county wherein such elector resides shall verify the authenticity of the affidavit, including verifying that the signature matches the signature from such elector's voter registration, and shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office and shall record the information pursuant to section 34-1011, *Idaho Code*. He shall safely keep and preserve all absentee electors' ballots unopened until the time prescribed for delivery to the polls or to the central count ballot processing center.

History: [S.L. 1970, ch. 140; am.1972, ch. 157; am.1995, ch. 215; am.2007, ch. 202; am.2011, ch. 285; am. 2021, ch. 262]

34-1006. COUNTY CLERKS SHALL PROVIDE ONE OR MORE "ABSENTEE ELECTORS' VOTING PLACE." (1) Each county clerk shall provide one (1) or more "**absent electors' polling place(s)**" as determined necessary by each county. Each polling place shall be provided with voting booths and other necessary supplies as provided by law. Except as provided in section 34-308, *Idaho Code*, every elector shall always be provided the opportunity to vote in person in an election, notwithstanding any declaration of emergency, extreme emergency, or disaster emergency by the governor.

(2) Electioneering is prohibited at an "**absent electors' polling place**" as provided in section 18-2318, *Idaho Code*.

History: [S.L. 1970, ch. 140; am.1994, ch. 21; am.1998, ch. 163; am. 2020, 1st E.S., ch. 3]

34-1007. COUNTING ABSENTEE BALLOTS. (1) In those counties that count ballots at the polls, upon receipt of absent elector's ballot or ballots, the officer receiving them shall forthwith enclose the same, unopened in a carrier envelope endorsed with the name and official title of such officer and the words: "**absent electors' ballot to be opened only at the polls.**" He shall hold the same until the delivery of the official ballots to the judges of election of the precinct in which the elector resides and shall deliver the ballot or ballots to the judges with such official ballots.

(2) In those counties that count ballots at a central location, absentee ballots that are received may, in the discretion of the county clerk, be retained in a secure place in the clerk's office and such ballots shall be added to the precinct returns at the time of ballot tabulation. Provided, however, for any election that takes place prior to December 31, 2020, absentee ballots may be opened and scanned beginning seven (7) days prior to election day. If the absentee ballots are opened prior to election day, the ballots shall be securely maintained in a nonproprietary electronic access-controlled room under twenty-four (24) hour nonproprietary video surveillance that is livestreamed to the public and which video must be archived for at least ninety (90) days following the election. The ballots shall be boxed and secured in the same access-controlled room each day after being opened or scanned. A minimum of two (2) election officials must be present whenever absentee ballots are accessed. No results shall be tabulated for absentee ballots until the polls close on the day of the election held prior to December 31, 2020.

(3) The clerk shall deliver to the polls a list of those absentee ballots received to record in the official poll book that the elector has voted.

History: [S.L. 1970, ch. 140; am.2002, ch. 236; am.2007, ch. 202; am. 2020, 1st E.S., ch. 1]

34-1008. DEPOSIT OF ABSENTEE BALLOTS. Between the opening and closing of the polls on such election day the judges of election of such precinct shall open the carrier envelope only, announce the absent elector's name, and in the event they find such applicant to be a duly registered elector of the precinct and that he has not heretofore voted at the election, they shall open the return envelope and remove the ballot envelopes and deposit the same in the proper ballot boxes and cause the absent elector's name to be entered on the poll books the same as though he had been present and voted in person. The ballot envelope shall not be opened until the ballots are counted.

History: [S.L. 1970, ch. 140; am.1995, ch. 215]

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34-1009. CHALLENGING ABSENTEE ELECTOR'S VOTE. The vote of any absent elector may be challenged in the same manner as other votes are challenged and the receiving judges shall have power and authority to determine the legality of such ballot. If the challenge be sustained, or if the receiving judges determine, that the affidavit accompanying the absent elector's ballot is insufficient, or that the elector is not a qualified registered elector the envelope containing the ballot of such elector shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. If an absent elector's envelope contains more than one (1) marked ballot of any one (1) kind, none of such ballots shall be counted and the judges shall make notations on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent electors' ballots cast and counted and the number of such ballots rejected.

History: [S.L. 1970, ch. 140; am. 2004, ch. 248]

34-1010. REJECTION OF DEFECTIVE BALLOTS. All absent electors' identification envelopes, ballot stubs and absent electors' ballots rejected by the judges in accordance with the provisions of this act shall be returned to the county clerk. All absent electors' ballots received by the county clerk after 8:00 p.m. on the day of the general, primary or special election, together with the rejected absent electors' ballots returned by the judges of election as provided in this section, shall remain in the sealed identification envelopes and be handled in the manner provided for other spoiled ballots.

History: [S.L. 1970, ch. 140; am. 1973, ch. 304]

34-1011. COUNTY CLERK'S RECORD OF APPLICATIONS FOR ABSENTEE ELECTOR'S BALLOTS. (1) The county clerk shall keep a record in his office containing a list of names and precinct numbers of electors making application for absentee elector's ballots, together with the date on which such application was made and the date on which such absentee elector's ballot was returned.

(2) If an absentee elector's ballot is not returned or if it be rejected and not counted, such fact shall be noted on the record.

(3) If an absentee elector's ballot is returned to the county clerk by the United States post office as undeliverable, the county clerk shall investigate the validity of the absentee elector's registration, and the results of the investigation shall be noted on the record. The secretary of state may promulgate rules to implement proper procedures for investigating the validity of an absentee elector's registration.

(4) Such record shall be open to public inspection under proper regulations.

History: [S.L. 1970, ch. 140; am. 2022, ch. 173]

34-1012. ALTERNATIVE PROCEDURES FOR ABSENTEE VOTING—EARLY VOTING. (1) Those counties that utilize absentee voting facilities that have access to the Idaho statewide voter registration system and count ballots at a central location or utilize a polling location based tabulation system may elect to conduct "**early voting**" according to the provisions of this section. For those counties that elect to do "**early voting**," early voting shall begin on or before the third Monday before the election and end at 5:00 p.m. on the Friday before the election. Primary election ballots shall be issued pursuant to section 34-1002(2), *Idaho Code*.

(2) A voter who appears at an "**early voting**" station to vote shall state his or her name and address to the election official and present the voter's identification as required by sections 34-1113 and 34-1114, *Idaho Code*.

(3) The election official shall examine the records to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested. The provisions of section 34-408A, *Idaho Code*, authorizing election day registration shall also apply in determining the applicant's qualifications to vote.

(4) Before receiving a ballot, each elector shall sign his or her name in the election register and poll book provided for early voting.

(5) The elector shall then be given the appropriate ballots containing the official election ballot identification pursuant to section 34-901, *Idaho Code*, and shall be given folding instructions for such ballots, if appropriate.

(6) Upon receipt of the ballots, the elector shall retire to a vacant voting booth and mark the ballots according to the instructions provided.

(7) After marking the ballot, the elector shall present himself or herself to the election official at the ballot box and state his or her name and address. The elector shall then deposit the ballot in the ballot box or hand it to the election official, who shall deposit it. The election official shall then record that the elector has voted and proclaim the same in an audible voice.

(8) Voters requiring assistance shall be provided with such assistance in accordance with section 34-1108, *Idaho Code*.

(9) Electioneering is prohibited at an early voting polling place as provided in section 18-2318, *Idaho Code*.

History: [S.L. 2013, ch. 132; am. 2016, ch. 138]

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34-1013. EARLY VOTING BALLOT SECURITY. (1) A detailed plan for the security of ballots for early voting shall be submitted to the secretary of state for approval no later than the third Friday of January or at least thirty (30) days prior to implementing an early voting plan. Once an early voting plan has been approved by the secretary of state, the plan shall be approved for the entire election year, unless it is modified. Any modified plan shall be submitted to the secretary of state for approval. Once a plan is approved, the county clerk shall notify the secretary of state of the county's intent to use the early voting process prior to each election and before early voting begins.

(2) At a minimum, the following procedures must be followed:

(a) The ballot boxes used for casting early ballots shall remain locked and secured with a numbered seal until the time of tabulation on election day;

(b) A record shall be maintained consisting of the number of ballots issued by date and seal number of each ballot box used for early voting;

(c) Arrangements shall be made to have a deputy sheriff, police officer or bonded private security firm secure the location; and

(d) The actual counting of ballots shall not begin until election day, and the results shall not be released to the public until all voting places in the state have closed.

History: [S.L. 2013, ch. 132; am.2018, ch. 155]

34-1014–34-1027. [REPEALED: AM. 1970, ch. 140]

Chapter 11: Conduct of Elections

34-1101. OPENING AND CLOSING OF POLLS. (1) At all elections conducted pursuant to title 34, Idaho Code, the polls shall be opened 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. The county clerk, at his option, however, may open the polls in his county at 7:00 A.M. for a primary or general election.

(2) Upon opening the polls, one (1) of the judges shall make the proclamation of the same and thirty (30) minutes before closing the polls a proclamation shall be made in the same manner. Any elector who is in line at 8:00 P.M. shall be allowed to vote notwithstanding the pronouncement that the polls are closed.

History: [S.L. 1970, ch. 140; am.1972, ch. 349; am.1973, ch. 304; am.1993, ch. 313]

34-1102. CHANGING POLLING PLACE—PROCLAMATION AND NOTICE. Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after assembling and before receiving any vote, may adjourn to the nearest convenient place for holding the election, and at such adjourned place forthwith proceed with the election and the county clerk shall be notified of the change.

Upon adjourning any election, the judges shall cause proclamation thereof to be made, and shall post a notice upon the place where the adjournment was made from notifying electors of the change of polling place.

History: [S.L. 1970, ch. 140]

34-1103. OPENING BALLOT BOXES. (1) In the presence of bystanders the judges of elections shall break the sealed packages of election ballots and other supplies.

(2) Before receiving any ballots the judges shall open and exhibit, close and lock the ballot boxes, and thereafter they shall not be removed from the polling place until all ballots are counted. They shall not be opened until the polls are closed unless the precinct is using a duplicate set of ballot boxes.

History: [S.L. 1970, ch. 140; am.2013, ch. 285]

34-1104. JUDGES MAY ADMINISTER OATHS—CHALLENGE OF VOTERS. Any judge may administer and certify any oath required to be administered during the progress of an election or challenge any elector.

History: [S.L. 1970, ch. 140]

34-1105. DUTIES OF CONSTABLE. The judges of election may appoint some capable person to act as election constable during the election, and he shall have the power to make arrests for disturbance of the peace, as provided by law for constables, and he shall allow no one within the voting area except those who go to vote, and shall allow but one (1) elector in a compartment at one (1) time. He shall remain and keep order at the polling place until all of the votes are tallied.

History: [S.L. 1970, ch. 140]

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34-1106. SIGNING COMBINATION ELECTION RECORD AND POLL BOOK—DELIVERY OF BALLOT TO ELECTOR.

(1) An elector desiring to vote shall state his name and address to the judge or clerk in charge of the combination election record and poll book.

(2) Before receiving his ballot, each elector shall sign his name in the combination election record and poll book following his name therein and show a valid photo identification as provided for in section 34-1113, *Idaho Code*, or personal identification affidavit as provided for in section 34-1114, *Idaho Code*.

(3) No person shall knowingly sign his name in the combination election record and poll book if his residence address is not within that precinct at the time of signing.

(4) If the residence address of a person contained in the combination election record and poll book is incorrectly given due to an error in preparation of the combination election record and poll book, the judge shall ascertain the correct address and make the necessary correction.

(5) The elector shall then be given the appropriate ballots which have been marked with the official election ballot identification and shall be given folding instructions for such ballots.

History: [S.L. 1970, ch. 140; am.1972, ch. 349; am.2010, ch. 246; am.2013, ch. 285]

34-1106A. ELECTRONIC POLL BOOK AUTHORIZED. (1) A county may adopt the use of any electronic poll book that has been certified by the secretary of state for use in this state. A county that opts to use electronic poll books shall notify the secretary of state of that decision.

(2) The secretary of state shall develop and provide to each county that adopts the use of electronic polls books under subsection (1) of this section instructions, directives and advisories regarding the examination, testing and use of the electronic poll books.

History: [S.L. 2015, ch. 282]

34-1107. MANNER OF VOTING. On receipt of his ballot the elector shall retire to a vacant voting booth and mark his ballot according to the instructions provided by law.

After marking his ballot, the elector shall present himself to the judge at the ballot box and state his name and residence. The elector shall then deposit his ballot in the proper box or hand his ballot to the election judge, who shall deposit it. The judge shall then record that the elector has voted and proclaim the same in an audible voice.

History: [S.L. 1970, ch. 140; am.1971, ch. 129; am.1972, ch. 349; am.1973, ch. 304; am.2007, ch. 202]

34-1108. ASSISTANCE TO VOTER. (1) If any registered elector is unable, due to physical or other disability, to enter the polling place, he may be handed a ballot outside the polling place but within forty (40) feet thereof by one (1) of the election clerks, and in his presence but in a secret manner, mark and return the same to such election officer who shall proceed as provided by law to record the ballot.

(2) If any registered elector, who is unable by reason of physical or other disability to record his vote by personally marking his ballot and who desires to vote, then and in that case such elector shall be given assistance by the person of his choice or by one (1) of the election clerks. Such clerk or selected person shall mark the ballot in the manner directed by the elector and fold it properly and present it to the elector before leaving the voting compartment or area provided for such purpose. The elector shall then present it to the judge of election in the manner provided above.

History: [S.L. 1970, ch. 140; am.1972, ch. 349; am.1978, ch. 37; am.2010, ch. 235]

34-1109. SPOILED BALLOTS. No person shall take or remove any ballot from the polling place. If an elector inadvertently or by mistake spoils a ballot, he shall return it folded to the distributing clerk, who shall give him another ballot. The ballot thus returned shall, without examination, be immediately canceled by writing across the back, or outside of the ballot as folded, the words “**spoiled ballot, another issued,**” and deposit the spoiled ballot in a box provided for that purpose.

History: [S.L. 1970, ch. 140]

34-1110. OFFICERS NOT TO DIVULGE INFORMATION. No judge or clerk shall communicate to anyone any information as to the name or number on the registry list of any elector who has not applied for a ballot, or who has not voted at the polling place; and no judge, clerk or other person whomsoever, shall interfere with, or attempt to interfere with, a voter when marking his ballot. No judge, clerk or other person shall, directly or indirectly, attempt to induce any voter to display his ticket after he shall have marked the same, or to make known to any person the name of any candidate for or against whom he may have voted.

History: [S.L. 1970, ch. 140]

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34-1111. CHALLENGING VOTERS. In case any person offering to vote is challenged one (1) of the judges must declare the qualifications of an elector to such person. If the person so challenged then declares himself duly qualified, and the challenge is not withdrawn, one (1) of the judges shall then tender him the elector's oath, as prescribed by the secretary of state. No challenged elector shall have the right to vote until he has subscribed to the elector's oath. Upon a challenged elector's subscribing the elector's oath, he shall be entitled to vote.

History: [S.L. 1970, ch. 140]

34-1112. HANDBOOK OF ELECTOR'S QUALIFICATIONS. The secretary of state shall prepare a handbook which sets forth the qualifications of an elector which shall aid the judges of election to determine whether a person is qualified to vote at the election.

A sufficient number of these handbooks shall be transmitted to each county clerk who shall provide each polling place with a sufficient number of copies.

History: [S.L. 1970, ch. 140; am.1972, ch. 349]

***** **34-1113 UPDATE** *****

EFFECTIVE JANUARY 1, 2024

34-1113. IDENTIFICATION AT THE POLLS. All voters shall be required to provide personal identification before voting at the polls or at absent electors polling places as required by section 34-1006, *Idaho Code*. The personal identification that may be presented shall be one (1) of the following:

- (1) An Idaho driver's license or identification card issued by the Idaho transportation department;
- (2) A passport or an identification card, including a photograph, issued by an agency of the United States government;
- (3) A tribal identification card, including a photograph; or
- (4) A license to carry concealed weapons issued under section 18-3302, *Idaho Code*, or an enhanced license to carry concealed weapons issued under section 18-3302K, *Idaho Code*.

*** **OUTGOING 34-1113** ***

Effective through December 31, 2023

34-1113. IDENTIFICATION AT THE POLLS. All voters shall be required to provide personal identification before voting at the polls or at absent electors polling places as required by section 34-1006, *Idaho Code*. The personal identification that may be presented shall be one (1) of the following:

- (1) An Idaho driver's license or identification card issued by the Idaho transportation department;
- (2) A passport or an identification card, including a photograph, issued by an agency of the United States government;
- (3) A tribal identification card, including a photograph;
- (4) A current student identification card, including a photograph, issued by a high school or an accredited institution of higher education, including a university, college or technical school, located within the state of Idaho; or
- (5) A license to carry concealed weapons issued under section 18-3302, *Idaho Code*, or an enhanced license to carry concealed weapons issued under section 18-3302K, *Idaho Code*.

History: [S.L. 2010, ch. 246; am.2017 Ch. 132; am. 2023, ch. 27]

34-1114. AFFIDAVIT IN LIEU OF PERSONAL IDENTIFICATION. If a voter is not able to present personal identification as required in section 34-1113, *Idaho Code*, the voter may complete an affidavit in lieu of the personal identification. The affidavit shall be on a form prescribed by the secretary of state and shall require the voter to provide the voter's name and address. The voter shall sign the affidavit. Any person who knowingly provides false, erroneous or inaccurate information on such affidavit shall be guilty of a felony.

History: [S.L. 2010, ch. 246]

Chapter 12: Canvas of Votes

34-1201. CANVASS OF VOTES. (1) When the polls are closed, the judges must immediately proceed to count the ballots cast at such election. The counting must be continued without adjournment until completed and the result declared.

(2) If the precinct has duplicate ballot boxes, the counting may begin after five (5) ballots have been cast. At this time, the additional clerks shall close the first ballot box and retire to the counting area and count the ballots. Upon completion of this counting, the clerks shall return the ballot box and then proceed to count all of the ballots cast in the second box during this period. This counting shall continue until the polls are closed, at which time all election personnel shall complete the counting of the ballots.

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(3) The county clerk may designate paper ballots be returned to a central count location for counting by special counting boards. If the paper ballots are to be counted at a central count location, a procedure may be adopted to deliver the voted ballots to the county clerk prior to the closing of the polls. The results of this early count shall not be released to the public until after 8:00 p.m. of election day.

(4) After being counted, all ballots shall be sealed and stored until such time as the recount period has passed or a recount has been completed. Ballots may be unsealed and resealed as part of a postelection audit conducted pursuant to section 34-1203A, *Idaho Code*.

History: [S.L. 1970, ch. 140; am. 2011, ch. 285; am. 2020, ch. 78; am. 2022, ch. 32]

34-1202. COMPARISON OF POLL LISTS AND BALLOTS—VOID BALLOTS. The counting must commence by comparison of the ballots and the poll lists from the commencement, and a correction of any mistake that may be found therein, until they are found to agree. The ballot box shall be opened and the ballots found therein counted by the judges, unopened and the number of ballots in the box must agree with the number marked in the poll book as having received a ballot, and this number, together with the number of spoiled ballots, must agree with the number of stubs or counterfoils in the books from which the ballots have been taken. If the number of ballots issued does not agree with the number of stubs or counterfoils, the election judges shall have authority to make any decision to correct the situation; but this shall not be construed to allow the judges to void all ballots cast at that polling place.

When duplicate ballot boxes are used in a precinct, the duties herein prescribed shall be done after all of the votes have been tallied.

History: [S.L. 1970, ch. 140; am.1995, ch. 215]

34-1202A. VOID BALLOT NOT COUNTED. At any bond election conducted by the state of Idaho, its agencies, institutions, political subdivisions and municipal and quasi-municipal corporations, any ballot or part of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted. It is hereby declared that any qualified elector casting such ballot or part of a ballot shall be deemed not to have voted at or participated in such bond election and such ballot or part of a ballot shall not be counted in determining the number of qualified electors voting at or participating in such bond election.

History: [S.L. 1978, ch. 51]

34-1203. COUNTING OF BALLOTS — CERTIFICATES OF JUDGES. (1) The ballots and polls lists agreeing, the election personnel shall then proceed to tally the votes cast. Under each office title, the number of votes for each candidate and such other information required by the secretary of state shall be entered in the tally books together with the total of the above figures in the manner prescribed by the secretary of state. Any ballot or part of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted. When a ballot is sufficiently plain to determine therefrom a part of the voter's intention, it shall be the duty of the judges to count such part.

(2) Following the counting, the judges must transmit a copy of the results to the county clerk.

(3)(a) For any election in which at least one (1) office election or ballot question in the county occurs in both time zones in Idaho, the county clerk shall release no election results to the public until all voting places in the state have closed on election day.

(b) If no office election or ballot question in the county occurs in both time zones in Idaho, the county clerk may release the election results to the public at any time after all voting places in the county have closed on election day.

(4) The secretary of state shall issue directives or promulgate administrative rules adopting standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in this state.

History: [S.L. 1970, ch. 140; am. 1981, ch. 109; am. 2003, ch. 48; am. 2016, ch. 272; am. 2022, ch. 195]

34-1203A. POSTELECTION AUDIT OF SELECTED BALLOTS. (1)(a) After the completion of all county canvasses for any primary or general election, the secretary of state shall identify and order a postelection audit of certain paper ballots cast in any election, shall immediately post to the website of the office of the secretary of state a list of the elections, counties, and precincts selected for audit, and shall immediately notify each affected county clerk and county sheriff of the same. Upon receiving such notification, the county sheriff shall immediately impound and take into custody the affected ballots pursuant to the procedures in chapter 23, title 34, Idaho Code. Upon completion of the postelection audit, the ballots shall be resealed and returned to the custody of the county clerk or, in the event that the ballots are subject to a recount pursuant to chapter 23, title 34, Idaho Code, to the county sheriff. The postelection audit shall include, at a minimum, a hand recount of the ballots subject to the audit and a comparison to the results reported by the county for any precincts, days, batches, legislative districts, and tabulation machines selected for audit.

(b) A postelection audit authorized pursuant to paragraph (a) of this subsection may be ordered for:

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- (i) Any or all federal elections held in Idaho;
 - (ii) The election for governor;
 - (iii) The statewide office election having the narrowest percentage margin of votes;
 - (iv) The statewide ballot question election having the narrowest percentage margin of votes; and
 - (v) One (1) legislative office election within the county.
- (c) The precincts selected for audit pursuant to paragraph (a) of this subsection shall:
- (i) Be selected by lot by the secretary of state without the use of a computer at an open public meeting governed by the provisions of chapter 2, title 74, Idaho Code; and
 - (ii) Not exceed five percent (5%) of the precincts in the county or one (1) precinct, whichever is greater. Provided, however, that multiple precincts may be selected in any county if the number of ballots from the precincts so selected is less than two thousand one hundred (2,100).
- (d) The secretary of state, in lieu of auditing the early or absentee ballots from any precincts selected for postelection audit, may select days, batches, legislative districts, and tabulation machines of early or absentee ballots for audit until the number of ballots selected equals or exceeds the number of early or absentee ballots that were cast from the precincts selected for postelection audit. Such days, batches, legislative districts, and tabulation machines shall be selected under the same requirements by which precincts were selected. The provisions of this paragraph apply only to a county that:
- (i) Does not organize the storage of its early or absentee ballots by precinct;
 - (ii) Organizes the storage of such ballots by day, batch, legislative district, or tabulation machine; and
 - (iii) Publicly reports the election results for early or absentee ballots by day, batch, legislative district, or tabulation machine on the county's website prior to the secretary of state's selection of precincts to be audited.
- (2) The secretary of state shall conduct, and the county clerks shall facilitate, any postelection audit ordered pursuant to subsection (1) of this section. Such an audit shall be open to attendance by news media personnel. By directive issued at least sixty (60) days prior to the election, the secretary of state shall determine the procedures by which the postelection audit is to be conducted. Such procedures shall be developed in consultation with county clerks and shall include provisions allowing each interested candidate and political party, and each political committee that publicly reported expending money on a ballot question for which the results will be audited, to appoint a designated observer. Within the time specified in the directive, the secretary of state shall report the results of any postelection audits on the website of the office of the secretary of state and to the county clerk of each county in which paper ballots were audited.
- (3) The secretary of state may order additional postelection audits, without regard to the election or precinct limitations provided in subsection (1) of this section, if he determines that such action is warranted by the findings of the audits ordered pursuant to subsection (1) of this section. The secretary of state shall limit such orders for additional postelection audits to the types of problems identified by the audits performed pursuant to subsection (1) of this section.
- (4) The office of the secretary of state shall pay for the cost of any postelection audits conducted pursuant to this section, including reimbursing county clerks for any costs associated with facilitating such audits.

History: [S.L. 2022, ch. 32; am. 2023, chs. 2 and 208]

34-1204. TRANSMISSION OF SUPPLIES TO COUNTY CLERK. After the counting of the votes, the judges of the election shall enclose and seal the combination election record and poll book, tally books, all ballot stubs, unused ballot books, and other supplies in a suitable container and deliver them to the county clerk's office. If the office of the county clerk is closed, the articles shall be delivered to the sheriff or one (1) of his deputies who shall deliver them to the county clerk no later than the day after the election.

History: [S.L. 1970, ch. 140; am.1972, ch. 193]

34-1205. COUNTY BOARD OF CANVASSERS—MEETINGS. The county board of commissioners shall be the county board of canvassers and the county clerk shall serve as their secretary for this purpose. The county board of canvassers shall meet within seven (7) days after a primary election and within ten (10) days after a general election for the purpose of canvassing the election returns of all precincts within the county.

History: [S.L. 1970, ch. 140; am.1972, ch. 193; am.1975, ch. 174; am.2012, ch. 33; am.2015, ch. 292; am. 2023, ch. 208]

34-1206. BOARD'S STATEMENT OF VOTES CAST. The board shall examine and make a statement of the total number of votes cast for all candidates or special questions that shall have been voted upon at the election. The statement shall set forth the special questions and the names of the candidates for whom the votes have been cast. It shall also include the total number of votes cast for each candidate for office by precinct or polling location for elections conducted pursuant

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to chapter 14, title 34, Idaho Code, and the total number of affirmative and negative votes cast for any special question by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code. The board shall certify that such statement is true, subscribe their names thereto, and deliver it to the county clerk.

History: [S.L. 1970, ch. 140; am.2012, ch. 211]

34-1207. ABSTRACTS OF RETURNS. After the canvass of the votes for each office the board shall cause the county clerk to make abstracts of the returns for each candidate which shall then be signed by each member of the board. The abstracts shall be in a form prescribed by the secretary of state and be uniform throughout the state.

The county clerk, by registered mail, shall forward to the secretary of state the abstracts for all candidates for federal, state or district offices.

History: [S.L. 1970, ch. 140]

34-1208. CERTIFICATES OF NOMINATION OR ELECTION. Immediately after the primary election canvass the county clerk shall issue certificates of nomination to the political party candidates of each party who receive the highest number of votes for their particular county office, and the candidates so certified shall have their names placed on the general election ballot. On or before the eighth day after the primary election canvass, the county clerk shall issue certificates of election to the precinct committeemen of each political party who receive the highest number of votes in their precinct. Provided that to be elected, a precinct committeeman shall receive a minimum of five (5) votes. In the event no candidate receives the minimum number of votes required to be elected, a vacancy in the office shall exist and shall be filled as otherwise provided by law. The county clerk shall also certify by registered mail the results of the primary election to the secretary of state. The form for such certificate shall be prescribed by the secretary of state and be uniform throughout the state.

History: [S.L. 1970, ch. 140; am.1975, ch. 174; am.1977, ch. 17; am.1979, ch. 309; am.1991, ch. 117; am.2012, ch. 33]

34-1209. CERTIFICATES OF ELECTION TO COUNTY CANDIDATES AFTER GENERAL ELECTION. Immediately after the general election canvass, the county clerk shall issue a certificate of election to the county candidates who received the highest number of votes for that particular office and they shall be considered duly elected to assume the duties of the office for the next ensuing term.

History: [S.L. 1970, ch. 140]

34-1210. TIE VOTES IN COUNTY ELECTIONS. In the case of a tie vote between candidates at a primary election or general election, the interested candidates shall appear before the county clerk within two (2) days after the canvass and the tie shall be determined by a toss of a coin.

History: [S.L. 1970, ch. 140]

34-1211. STATE BOARD OF CANVASSERS—MEETINGS. The secretary of state, state controller and state treasurer shall constitute the state board of canvassers. The functions of the board shall be election functions, and the secretary of state shall be chairman of the board. The state board of canvassers shall meet within fifteen (15) days after the primary election and within fifteen (15) days after the general election in the office of the secretary of state for the purpose of canvassing the abstracts of votes cast for all candidates for federal, state and district offices.

History: [S.L. 1970, ch. 140; am.1972, ch. 193; am.1974, ch. 5; am.1994, ch. 181]

34-1212. EXAMINATION AND CERTIFICATION OF COUNTY CANVASSES BY STATE BOARD. The board shall examine the abstracts of votes from the county canvasses and make a statement of the total number of votes cast for all federal, state and district candidates or special questions that shall have been voted upon at the election. The statement shall set forth the special questions and the names of the candidates for whom the votes have been cast. It shall also include the total number of votes cast for each candidate for office by county and legislative district, and the total number of affirmative and negative votes cast for any special question by county. The board shall certify that such statement is true, subscribe their names thereto, and deliver it to the secretary of state.

History: [S.L. 1970, ch. 140]

34-1213. CERTIFICATION OF CANVASS OF ABSTRACTS BY BOARD. After the canvass of the abstracts, the board shall make a statement of the total number of votes cast at any such election for all the candidates for federal, state or district offices, which statement shall show the names of the persons to whom such votes shall have been cast for the particular offices and the total number cast to each, distinguishing the several districts, counties and precincts in which they were given. They shall certify such statement to be correct, and subscribe their names thereto.

History: [S.L. 1970, ch. 140]

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34-1214. CERTIFICATES OF NOMINATION OR ELECTION TO FEDERAL, STATE, DISTRICT OR NONPARTISAN OFFICES AFTER PRIMARY. (1) Immediately after the primary election canvass, the secretary of state shall issue certificates of nomination to the political party candidates of each party who receive the highest number of votes for their particular federal, state or district office. The candidates so certified shall have their names placed on the general election ballot.

(2) Immediately after the primary election canvass, the secretary of state shall issue certificates of nomination to the nonpartisan candidate or candidates who receive the highest number of votes for the number of vacancies which are to be filled for a particular office and also to the same number of candidates who receive the second highest number of votes for the particular office. The candidates so certified shall have their names placed on the general election ballot. If it appears from the canvass that a particular candidate has received a majority of the total vote cast for the particular office, he shall be issued a certificate of election instead of a certificate of nomination and no candidates shall run for the particular office in the general election.

History: [S.L. 1970, ch. 140]

34-1215. CERTIFICATES OF ELECTION TO FEDERAL, STATE AND DISTRICT OFFICES AFTER GENERAL ELECTION. Immediately after the general election canvass, the secretary of state shall issue certificates of election to the federal, state and district candidates who received the highest number of votes for the particular office and they shall be considered duly elected to assume the duties of the office for the next ensuing term.

History: [S.L. 1970, ch. 140]

34-1216. TIE VOTES—IN STATE OR DISTRICT ELECTIONS. In the case of a tie vote between the candidates at a primary or general election, the interested parties or their authorized agents shall appear before the secretary of state within two (2) days after the canvass and the tie shall be determined by a toss of a coin.

History: [S.L. 1970, ch. 140]

34-1217. CANVASSING RETURNS OF JUDICIAL ELECTIONS—CERTIFICATES OF NOMINATION OR ELECTION. The board of county commissioners shall canvass the returns of the judicial nominating election at the time the returns of the primary election are canvassed, shall determine, and cause the county clerk to certify to the secretary of state, the result of said judicial nominating election. In such certificate the clerk shall set forth, following the name of each justice of the Supreme Court and each district judge for whom a successor is to be elected at the general election in that year, the vote received by each person who had declared himself to be, and who had been voted for as, a candidate to succeed such justice or district judge.

The returns so made to the secretary of state by the county clerk shall be canvassed by the state board of canvassers at the time the other returns of said primary election are canvassed.

If it appears to the state board of canvassers upon the official canvass that at such judicial nominating election any candidate received a majority of all the votes cast for candidates to succeed a particular justice of the supreme court or district judge, said board shall certify to the secretary of state as duly elected to such office the name of the candidate who received such majority and such candidate whose name is so certified shall receive and the secretary of state shall issue and deliver to him a certificate of election to such office and he shall not be required to stand for election at the general election following.

In the event no candidate received a majority of all votes cast for candidates to succeed a particular justice of the supreme court or a particular district judge, the two (2) candidates receiving the greater number of votes cast for all candidates to succeed such justice of the supreme court or such district judge shall be and shall be declared to be nominees to succeed such justice or such district judge and their names as such nominees shall be placed on the official judicial ballot at the general election next following. The secretary of state shall certify the names of such nominees, including with each the name of the incumbent in office whom such candidates were nominated to succeed, to the county clerks at the time he certifies the names of candidates for other offices certified by him; provided, however, if another be appointed to succeed the incumbent person named on such judicial nominating ballot, the secretary of state shall insert in such certificate or in amendment thereto the name of the appointee in the place of the name of the incumbent person named on such judicial nominating ballot.

History: [S.L. 1970, ch. 231; am.1971, ch. 131]

Chapter 13: State Board of Canvassers [REPEALED]

34-1301–34-1307. [REPEALED: AM. 1970, ch. 140]

(New law contained Chapter 12 herein)

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Chapter 14: Uniform District Election Law

34-1401. ELECTION ADMINISTRATION. (1) Notwithstanding any provision to the contrary, the county clerk shall administer all elections on behalf of any political subdivision, subject to the provisions of this chapter, including all special district elections and elections of special questions submitted to the electors as provided in this chapter. Water districts governed by chapter 6, title 42, Idaho Code, recreational water and/or sewer districts as defined in section 42-3202A, Idaho Code, aquifer recharge districts governed by chapter 42, title 42, Idaho Code, ground water management districts governed by chapter 51, title 42, Idaho Code, ground water districts governed by chapter 52, title 42, Idaho Code, and irrigation districts governed by title 43, Idaho Code, are exempt from the provisions of this chapter. Municipal elections shall be conducted under the provisions of this chapter except for the specific provisions of chapter 4, title 50, Idaho Code. All school district and highway district elections shall be conducted pursuant to the provisions of this chapter 14, title 34, Idaho Code. All school district and school district elections shall be administered by the clerk of the county wherein the district lies. Elections in a joint school district or other political subdivisions that extend beyond the boundaries of a single county 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. “**Home county**” shall be defined as the county in which the business office for the district or political subdivision is located.

(2) For the purposes of achieving uniformity, the secretary of state shall, from time to time, provide directives and instructions to the various county clerks. Unless a specific exception is provided in this chapter, the provisions of this chapter shall govern in all questions regarding the conduct of elections on behalf of all political subdivisions. In all matters not specifically covered by this chapter, other provisions of title 34, Idaho Code, governing elections shall prevail over any special provision which conflicts therewith.

(3) The county clerk shall conduct the elections for political subdivisions and shall perform all necessary duties of the election official of a political subdivision including, but not limited to, notice of the filing deadline, notice of the election, and preparation of the election calendar.

History: [S.L. 1992, ch. 176; am.1993, ch. 313; am.1993, ch. 379; am.1996, ch. 298; am.2009, ch. 341; am.2010, ch. 185; am.2011, ch. 11; am. 2021, ch. 325]

34-1402. REGISTRATION. All electors must register with the county clerk before being able to vote in any primary, general, special or any other election conducted in this state. The county clerk shall determine, for each registered elector, the elections for which he is eligible to vote by a determination of the applicable code areas. The determination of tax code area shall be made for all political subdivisions including those otherwise exempt from the provisions of this chapter.

The county clerk shall conform to the provisions of chapter 4, title 34, Idaho Code, in the administration of registration for all political subdivisions within the county.

History: [S.L. 1992, ch. 176; am.2003, ch. 48; am.2011, ch. 285]

34-1403. CONDUCT OF ELECTIONS. All elections conducted in this state on behalf of each political subdivision within the county shall be conducted in a uniform manner with regard to the qualifications of electors and shall be conducted on the dates as provided by law. In the event that a statute governing a political subdivision provides for qualifications more restrictive than the qualifications for an elector in section 34-402, Idaho Code, the election official of the district shall provide an elector’s oath to be executed at the time of the election certifying to the elector’s qualifications for the specific election.

History: [S.L. 1992, ch. 176; am.1993, ch. 313]

34-1404. DECLARATION OF CANDIDACY. (1) Candidates for election in any political subdivision shall be nominated by nominating petitions, each of which shall bear the name of the nominee, the office for which the nomination is made, the term for which nomination is made, the signature of not less than five (5) electors of the candidate’s specific zone or district of the political subdivision, and be filed with the clerk of the political subdivision. The form of the nominating petition shall be as provided by the county clerk and shall be uniform for all political subdivisions. For an election to be held on the third Tuesday in May, in even-numbered years, the nomination petition shall be filed during the period specified in section 34-704, Idaho Code. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees to be placed on the ballot of the political subdivision. For an election to be held on the first Tuesday after the first Monday of November, in even-numbered years, the nomination shall be filed on or before September 1. The clerk of the political subdivision shall verify the qualifications of the nominees and shall, no more than seven (7) days after the close of filing, certify the nominees to be placed on the ballot of the political subdivisions. For all other elections, 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 clerk of the political subdivision shall verify the qualifications of the nominee and shall, no more than seven (7) days following the filing, certify the nominees to be placed on the ballot of the political subdivision.

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(2) Nominating petitions shall include campaign contact information for candidates, including phone numbers.

(3) All information in nominating petitions shall be made publicly available upon request.

History: [S.L. 1993, ch. 313; am. 2009, ch. 341; am. 2010, ch. 185; am. 2011, ch. 11; am. 2014, ch. 162; am. 2022, ch. 305]

34-1405. NOTICE OF ELECTION FILING DEADLINE. (1) Not more than fourteen (14) nor less than (7) days preceding the candidate filing deadline for an election, the county clerk shall cause to be published a notice of the forthcoming candidate filing deadline for all taxing districts. The notice shall include not less than the name of the political subdivision, the place where filing for each office takes place, and a notice of the availability of declarations of candidacy. The notice shall be published in the official newspaper of the political subdivision.

(2) The secretary of state shall compile an election calendar annually which shall include not less than a listing of the political subdivisions which will be conducting candidate elections in the forthcoming year, the place where filing for each office takes place, and the procedure for a declaration of candidacy. Annually in December, the county clerk shall cause to be published the election calendar for the county for the following calendar year. This publication shall be in addition to the publication required by paragraph (1) of this section. The election calendar for the county shall be published in at least two (2) newspapers published within the county, but if this is not possible, the calendar shall be published in one (1) newspaper which has general circulation within the county. Copies of the election calendar shall be available, without charge, from the office of the secretary of state or the county clerk.

History: [S.L. 2011, ch. 11; am. 2019, ch. 96]

34-1405A. WITHDRAWAL OF CANDIDACY. A candidate for nomination or candidate for election to an office may withdraw from the election by filing a notarized statement of withdrawal with the officer with whom his declaration of candidacy was filed. The statement must contain all information necessary to identify the candidate and the office sought and the reason for withdrawal. A candidate may not withdraw later than forty-six (46) days before an election.

History: [S.L. 2011, ch. 11; am. 2019, ch. 96]

34-1406. NOTICE OF ELECTION. The county clerk shall give notice for each political subdivision for any election by publishing such notice in the official newspaper of the county. The notice shall state the date of the election, the polling places, and the hours during which the polls shall be open for the purpose of voting. The first publication shall be made not less than twelve (12) days prior to the election, and the last publication of notice shall be made not less than five (5) days prior to the election. For each primary, general and special election, the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot in at least two (2) newspapers published within the county, but if this is not possible, the sample ballot shall be published in one (1) newspaper published within the county or one (1) newspaper that has general circulation within the county. Such publication shall be in conjunction with the second notice of election required by this section. The political subdivision shall notify the county clerk in writing of the official newspaper of the political subdivision.

History: [S.L. 1992, ch. 176; am.1993, ch. 313; am.2009, ch. 341; am.2011, ch. 11]

34-1407. WRITE-IN CANDIDATES. (1) No write-in candidate for any nonpartisan elective office 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 the office. The declaration of intent shall be filed with the clerk of the political subdivision by no later than the eighth Friday before the date of the election.

(2) If the statutes governing elections within a specific political subdivision provide that no election shall be held in the event that no more than one (1) candidate has filed for an office, that statute shall be interpreted in such a manner as to allow for filing a declaration of intent for a write-in candidate until the eighth Friday preceding the election. However, if no candidate has filed within that time, no election shall be held for that political subdivision. The provisions of this section shall not apply to candidates in the primary or general election covered by the provisions of section 34-702A, *Idaho Code*.

History: [S.L. 1992, ch. 176; am. 1993, ch. 313; am. 1997, ch. 362; am. 2011, ch. 11; am. 2019, ch. 96; am.2020, ch. 69]

34-1408. ABSENTEE BALLOTS. Any registered elector may vote at any election by absentee ballot as provided in chapter 10, title 34, *Idaho Code*. In the event of a written application to the county clerk for an absentee ballot, the application shall be deemed to be an application for all ballots to be voted in the election, and the county clerk shall provide the ballot of the political subdivision to the elector.

History: [S.L. 1992, ch. 176; am.2010, ch. 185]

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34-1409. CONDUCT OF ELECTION ON ELECTION DAY. At all elections conducted by any political subdivision, the polls shall be opened 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 election official may, at his option, open the polls in his jurisdiction at 7:00 a.m.

All political subdivisions conducting election on the same date shall, whenever practicable, use the same polling places.

History: [S.L. 1992, ch. 176]

34-1410. CANVASSING OF ELECTION RESULTS. The board of county commissioners shall conduct the canvass of the election results within ten (10) days after the election, in the manner provided in [chapter 12, title 34, Idaho Code](#). The county clerk shall certify the election results to the clerk of each political subdivision for which an election was held. Each political subdivision shall issue the appropriate certificates of election.

History: [S.L. 1992, ch. 176; am.2010, ch. 185; am.2011, ch. 11]

34-1411. PAYMENT OF ELECTION EXPENSES BY COUNTY. (1) On and after January 1, 2011, no county shall charge any taxing district, as defined in section [63-201, Idaho Code](#), for expenses associated with conducting any election on behalf of any taxing district, with the exception of expenses associated with conducting municipal runoff elections, which shall be paid by the city adopting runoff elections pursuant to the provisions of section [50-612](#) or [50-707B, Idaho Code](#). Expenses associated with conducting taxing district elections shall include:

- (a) Costs of ballot preparation, distribution, printing and counting, including absentee ballots.
- (b) Costs of printing poll books and costs of tally books, stamps, signs and any other voting supplies, publications and equipment.
- (c) Wages or other compensation for election judges and clerks or any county employees or officials performing duties associated with conducting taxing district elections.
- (d) Costs paid for renting polling facilities.
- (e) Acquisition, repair, maintenance or any other costs associated with voting machines or vote tally systems as defined in subsections (9) and (10) of section [34-2401, Idaho Code](#).
- (f) Costs of publishing and printing election notices and ballots.

(2) Counties shall not be responsible for any election expenses prior to the time any taxing district orders an election, such as notice and costs for public hearings and notice and costs for public hearings on ballot measures.

(3) Notwithstanding the provisions of subsection (1) of this section, all ballot questions shall be limited to two hundred fifty (250) words or less. If a ballot question is in excess of two hundred fifty (250) words, the entity proposing a ballot question that is not a state constitutional amendment shall be required to pay the ballot printing costs associated with the ballot question.

History: [S.L. 2009, ch. 341]

34-1412. TERMS OF OFFICE GOING BEYOND THE NEXT ELECTION DATE. Notwithstanding any other provision of law to the contrary, whenever a member of the governing board of a taxing district has been elected to a term of office that goes beyond the next election date as provided by statute, such member of the governing board shall be entitled to serve his or her term of office and shall continue to serve until the following election provided by statute. All governing board members elected on and after January 1, 2011, shall serve terms of office beginning and ending as otherwise provided by statute.

History: [S.L. 2011, ch. 11]

34-1413. PROCEDURES FOR CERTAIN POLITICAL SUBDIVISION ELECTIONS TO MODIFY VOTING PROCEDURES. Any county that wishes to modify voting procedures for a political subdivision election shall submit an election plan to the secretary of state for approval for the modified voting procedures to be effective at least forty (40) calendar days prior to an election. The secretary of state shall notify the political subdivision of its approval, disapproval and, if it is disapproved, what remedial measures may be taken that would allow for approval of the voting plan.

History: [S.L. 2011, ch. 285; am.2014, ch. 162]

34-1414. ELECTION BY ZONES — EXCEPTION FOR CERTAIN POLITICAL SUBDIVISIONS. Notwithstanding any other provision of law to the contrary, the governing body of any political subdivision that contains no more than one hundred forty (140) registered voters at the last general election may apply to the appropriate board of county commissioners for a determination that the election of the members of the political subdivision's governing body may be held at large instead of by district zones or subdistricts. The board of county commissioners shall make the determination whether to permit the election of the political subdivision's governing body to be elected at large and the county clerk shall provide notice of the

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board's decision to the affected electors at least ninety (90) days before the next general election. If the board of county commissioners approves the request for an at-large election, the approval shall apply to future elections until revoked by the board of county commissioners.

History: [S.L. 2021, ch. 70]

34-1415. ELECTION ZONES, DISTRICTS, AND SUBDISTRICTS. Any city or special district subject to the provisions of this chapter whose governing body members are elected by separate zones, districts, or subdistricts shall notify the county clerk of any approved changes in the boundaries of such zones, districts, or subdistricts within thirty (30) days after the approval of such changes or within thirty (30) days prior to the filing deadline for candidates for the governing body, whichever is earlier

History: [S.L. 2022, ch. 257]

Chapter 15: Presidential Electors

34-1501. CERTIFICATES OF ELECTION. The secretary of state shall prepare lists of the names of the electors of president and vice-president of the United States, elected at any election, procure thereto the signature of the governor, affix the seal of the state to the same, and deliver one (1) of such certificates thus signed to each of said electors on or before the second Wednesday in December next after such election.

History: [1890-1891, p. 57, sec. 110; reen. 1899, p. 33, sec. 101; reen. R.C. & C.L., sec. 459; C.S., sec. 643; I.C.A., sec. 33-1401]

34-1502. ELECTION FOR PRESIDENTIAL ELECTORS. There shall be an election held in this state for the election of such electors, at the times appointed by any law of the Congress or the Constitution of the United States for such election, and when such election shall be special, the same shall be called and held, and the votes polled and canvassed, in all respects as at a general election, and the duties of the electors so elected shall be the same as prescribed by law for electors elected at a general election.

History: [1890-1891, p. 57, latter part of sec. 115; reen. 1899, p. 33, sec. 102; am. R.C. & C.L., sec. 460; C.S., sec. 644; I.C.A., sec. 33-1402]

34-1503. MEETING OF ELECTORS. The electors chosen to elect a president and vice-president of the United States shall, at twelve (12) o'clock noon on the day which is or may be directed by the Congress of the United States, meet at the seat of government of this state, and then and there perform the duties enjoined upon them by the Constitution and laws of the United States.

History: [1890-1891, p. 57, sec. 111; reen. 1899, p. 66, sec. 1; am. R.C. & C.L., sec. 461; C.S., sec. 645; I.C.A., sec. 33-1403]

34-1504. NOTICE TO GOVERNOR—VACANCIES, HOW FILLED. Each elector of president and vice-president of the United States shall, before the hour of twelve (12) o'clock on the day next preceding the day fixed by the law of Congress to elect a president and vice-president, give notice to the governor that he is at the seat of government and ready at the proper time to perform the duties of an elector; and the governor shall forthwith deliver to the electors present a certificate of all the names of the electors; and if any elector named therein fails to appear before nine (9) o'clock on the morning of the day of election of president and vice-president as aforesaid, the electors then present shall immediately proceed to elect, by ballot, in the presence of the governor, persons to fill such vacancies.

History: [1890-1891, p. 57, sec. 112; reen. 1899, p. 66, sec. 2; am. R.C. & C.L., sec. 462; C.S., sec. 646; I.C.A., sec. 33-1404]

34-1505. FILLING VACANCIES—TIE VOTE. If more than the number of persons required to fill the vacancies, as aforesaid, have the highest and an equal number of votes, then the governor, in the presence of the electors attending, shall decide by lot which of said persons shall be elected; otherwise they, to the number required, having the greatest number of votes, shall be considered elected to fill such vacancies.

History: [1890-1891, p. 57, sec. 113; reen. 1899, p. 66, sec. 3; reen. R.C. & C.L., sec. 463; C.S., sec. 647; I.C.A., sec. 33-1405]

34-1506. NOTIFICATION OF ELECTION TO FILL VACANCY. Immediately after such choice is made the names of the persons so chosen shall forthwith be certified to the governor by the electors making such choice; and the governor shall cause immediate notice to be given in writing to the electors chosen to fill such vacancies; and the said persons so chosen shall be electors, and shall meet the other electors at the same time and place, and then and there discharge all and singular the duties enjoined on them as electors aforesaid by the Constitution and laws of the United States and of this state.

History: [1890-1891, p. 57, sec. 114; reen. 1899, p. 66, sec. 4; reen. R.C. & C.L., sec. 464; C.S., sec. 648; I.C.A., sec. 33-1406]

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34-1507. COMPENSATION AND MILEAGE OF ELECTORS. Every elector of this state for the election of president and vice president of the United States, hereafter elected, who shall attend and give his vote for those offices at the time and place appointed by law, shall be compensated as provided by section 59-509(d), *Idaho Code*.

History: [1890-1891, p. 57, sec. 115; reen. 1899, p. 66, sec. 5; am. R.C. & C.L., sec. 465; C.S., sec. 649; I.C.A., sec. 33-1407; am.1980, ch. 247]

Chapter 16: Special Elections [REPEALED]

34-1601–34-1605. [REPEALED: AM. 1970, ch. 140]

(New law contained throughout Title 34 with laws governing general election applicable)

Chapter 17: Recall Elections

34-1701. OFFICERS SUBJECT TO RECALL. The following public officers, whether holding their elective office by election or appointment, and none other, are subject to recall:

(1) State officers:

(a) The governor, lieutenant-governor, secretary of state, state controller, state treasurer, attorney general, and superintendent of public instruction;

(b) Members of the state senate, and members of the state house of representatives.

(2) County officers:

(a) The members of the board of county commissioners, sheriff, treasurer, assessor, prosecuting attorney, clerk of the district court, and coroner.

(3) City officers:

(a) The mayor;

(b) Members of the city council.

(4) Special district elected officers for whom recall procedure is not otherwise provided by law.

History: [S.L. 1972, ch. 283; am. 1975, ch. 137; am. 1994, ch. 181; am. 1995, ch. 266]

34-1702. REQUIRED SIGNATURES ON PETITION. A petition for recall of an officer shall be instituted by filing with the appropriate official a verified written petition requesting such recall.

(1) If the petition seeks recall of any of the officers named in subsection (1)(a) of section 34-1701, *Idaho Code*, the petition shall be filed with the secretary of state and must be signed by registered electors equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held to elect a governor.

(2) If the petition seeks recall of any of the officers named in subsection (1)(b) of section 34-1701, *Idaho Code*, the petition shall be filed with the secretary of state and must be signed by registered electors of the legislative district equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the legislative district at which the member was elected.

(3) If the petition seeks recall of any of the officers named in subsection (2)(a) of section 34-1701, *Idaho Code*, the petition shall be filed with the county clerk and must be signed by registered electors of the county equal in number to twenty percent (20%) of the number of electors registered to vote at the last general election held in the county for the election of county officers at which the officer was elected.

(4) If the petition seeks recall of any of the officers named in subsection (3) of section 34-1701, *Idaho Code*, the petition shall be filed with the county clerk and must 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. If the city is located in two (2) or more counties, the clerk in each county shall perform the functions within that county as provided in section 34-1401, *Idaho Code*.

(5) If the petition seeks recall of any of the officers named in subsection (4) of section 34-1701, *Idaho Code*, the petition shall be filed with the county clerk of the county wherein the district is located. If the district is located in two (2) or more counties, the clerk in each county shall perform the functions within that county. The petition must be signed by registered electors residing within the district, subdistrict, or zone in which the electors are eligible to vote for the official, equal in number to fifty percent (50%) of the number of electors who cast votes in the last election within the district, subdistrict, or zone. If no such 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, subdistrict, or zone in which the electors are eligible to vote for the official, as calculated at the time the petition is filed.

History: [S.L. 1972, ch. 283; am. 1995, ch. 266; am. 2003, ch. 57; am. 2012, ch. 211; am. 2021, ch. 325; am. 2022, ch. 228]

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34-1703. FORM OF PETITION. (1) The recall petition for state officers other than members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the Honorable _____, Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of the State of Idaho respectfully demand that _____, holding the office of _____, be recalled by the registered electors of this state for the following reasons (setting out the reasons for recall in no more than 200 words):

that a special election therefor be called; that we, each for himself say: I am a registered elector of the State of Idaho; my residence, address including county, and the date I signed this petition are correctly written after my name.

Signature Printed Name Residence and Number Street County Date

(Here follow no more than twenty numbered lines for signatures.)

(2) The recall petition for members of the state legislature shall be in substantially the following form:

RECALL PETITION

To the Honorable _____, Secretary of State for the State of Idaho:

We, the undersigned citizens and registered electors of Legislative District No. _____, respectfully demand that _____, holding the office of _____, be recalled by the registered electors of Legislative District No. _____, for the following reasons (setting out the reasons for recall in no more than 200 words):

that a special election therefor be called; that we, each for himself say: I am a registered elector of Legislative District No _____, my residence, address including county, and the date I signed this petition are correctly written after my name.

Signature Printed Name Residence and Number Street County Date

(Here follow no more than twenty numbered lines for signatures.)

(3) The recall petition for county officers shall be in substantially the following form:

RECALL PETITION

To the Honorable _____, County Clerk for the County of _____:

We, the undersigned citizens and registered electors of the County of _____, respectfully demand that _____, holding the office of _____, of the County of _____, be recalled by the registered electors of the County of _____ for the following reasons (setting out the reasons for recall in no more than 200 words):

that a special election therefor be called; that we, each for himself say: I am a registered elector of the County of _____, my residence, address including county, and the date I signed this petition are correctly written after my name.

Signature Printed Name Residence and Number Street County Date

(Here follow no more than twenty numbered lines for signatures.)

(4) The recall petition for city officers shall be in substantially the following form:

RECALL PETITION

To the Honorable _____, County Clerk for the County of _____:

We, the undersigned citizens and registered electors of the City of _____, respectfully demand that _____, holding the office of _____, of the City of _____

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, be recalled by the registered electors of the City of _____ for the following reasons (setting out the reasons for recall in no more than 200 words):

that a special election therefor be called; that we, each for himself say: I am a registered elector of the City of _____, my residence, address including county, and the date I signed this petition are correctly written after my name.

Signature Printed Name Residence and Number Street County Date

(Here follow no more than twenty numbered lines for signatures.)

(5) The recall petition for special district officers shall be in substantially the following form:

RECALL PETITION

To the Honorable _____, County Clerk of the County of _____:

We, the undersigned citizens and registered electors of (here insert the official name of the district), respectfully demand

that _____, holding the office of _____, of the (district), be recalled by the registered electors of the (district) for the following reasons (insert the reasons for the recall in two hundred (200) words or less):

that a special election therefor be called, that we, each for himself say: I am a registered elector of the (district), my residence, address including county, and the date I signed this petition are correctly written after my name.

Signature Printed Name Residence and Number Street County Date

(Here follow no more than twenty numbered lines for signatures.)

History: [S.L. 1972, ch. 283; am. 1989, ch. 344; am. 1995, ch. 266; am. 2013, ch. 135; am. 2019, ch. 96; am. 2021, ch. 325]

34-1704. PRINTING OF PETITION AND SHEETS FOR SIGNATURES—TIME LIMITS FOR PERFECTING PETITION.

(1) Before or at the time of beginning to circulate any petition for the recall of any officer subject to recall, the person or persons or organization or organizations under whose authority the recall petition is to be circulated, shall send or deliver to the secretary of state or county clerk, as the case may be, a copy of a prospective petition duly signed by at least twenty (20) electors eligible to sign such petition. The receiving officer shall immediately examine the petition and specify the form and kind and size of paper on which the petition shall be printed and circulated for further signatures. All petitions and signature sheets for recall shall be printed on a good quality bond paper of standardized size in substantial conformance within the provisions of section 34-1703, Idaho Code. To every sheet of petitioners' signatures shall be attached a full and correct copy of the recall petition.

(2) The secretary of state or county clerk, as the case may be, shall indicate in writing on the prospective recall petition that he has approved it as to form and the date of such approval. Upon approval as to form, the secretary of state or county clerk, shall inform the person or persons or organization or organizations under whose authority the recall petition is to be circulated, in writing, that the petition must be perfected with the required number of signatures within seventy-five (75) days following the date of approval as to form. Signatures on the prospective petition shall not be counted toward the required number of signatures. Any petition that does not contain the required number of signatures within the seventy-five (75) days allowed shall be declared null and void ab initio in its entirety.

History: [S.L. 1972, ch. 283; am. 1975, ch. 137; am. 2004, ch. 164; am. 2013, ch. 135; am. 2021, ch. 325]

34-1705. VERIFICATION ON SHEETS FOR SIGNATURES. Each and every signature sheet of each petition containing signatures shall be verified on the face thereof in substantially the following form by the person who circulated said sheet of the petition, by his or her affidavit thereon, as a part thereof:

State of Idaho

ss.

County of _____

I, _____, swear, under penalty of perjury, that I am a resident of the State of Idaho and at least eighteen (18) years of age; and that every person who signed this sheet of the foregoing petition signed his or

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her name thereto in my presence. I believe that each has stated his or her name and the accompanying required information on the signature sheet correctly, and that the person was eligible to sign this petition.

(Signature) _____

Post office address _____

Subscribed and sworn to before me this _____ day
of _____, _____.

(Notary Seal)

Notary Public

Residing at _____

History: [S.L. 1972, ch. 283; am. 2004, ch. 164]

34-1706. EXAMINATION AND CERTIFICATION OF SIGNATURES. All petitions with attached signature sheets shall be filed on the same day with the secretary of state or county clerk, as the case may be. The secretary of state shall promptly transmit the petitions and attached signature sheets to the appropriate county clerks. An examination to verify whether or not the petition signers are qualified electors shall be conducted by the county clerk and a certificate shall be attached to the signature sheets as provided in section 34-1807, *Idaho Code*. This examination shall not exceed fifteen (15) business days from the date of receipt of the petitions.

History: [S.L. 1972, ch. 283; am.1975, ch. 137; am.1995, ch. 266; am.2004, ch. 164; am.2013, ch. 135; am. 2021, ch. 325]

34-1707. SUFFICIENCY OF PETITION—NOTIFICATION—EFFECT OF RESIGNATION—SPECIAL ELECTION.

(1) In the event that a petition filed with the secretary of state is found by the secretary of state to contain the required number of certified signatures, the secretary of state shall promptly provide written notice to the officer being recalled and the petitioner that the recall petition is in proper form. If the officer being recalled is the secretary of state, the governor shall also be notified.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the secretary of state, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the secretary of state, a special election shall be ordered by the secretary of state, unless he is the officer being recalled, in which event the governor shall order such special election. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. If the officer being recalled is one (1) specified in section 34-1701(1)(a), *Idaho Code*, the special election shall be conducted statewide. If the officer being recalled is one (1) specified in section 34-1701(1)(b), *Idaho Code*, the special election shall be conducted only in the legislative district.

(2) In the event that a petition filed with the county clerk is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled and the petitioner that the recall petition is in proper form. If the officer being recalled is the county clerk, the secretary of state shall also be notified.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk, unless the county clerk is the officer being recalled, in which event the secretary of state shall order the special election. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. The special election shall be conducted countywide.

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(3) In the event that a petition filed with the county clerk concerning the recall of an official of a city or special district is found by the county clerk to contain the required number of certified signatures, the county clerk shall promptly provide written notice to the officer being recalled, the petitioner, and the governing board of the city or special district that the recall petition is in proper form.

(a) If the officer being recalled resigns his office within five (5) business days after notice from the county clerk, his resignation shall be accepted and the resignation shall take effect on the day it is offered, and the vacancy shall be filled as provided by law.

(b) If the officer being recalled does not resign his office within five (5) business days after notice from the county clerk, a special election shall be ordered by the county clerk. The special election must be held on the date prescribed in section 34-106, *Idaho Code*. The election shall be conducted by the county clerk in the manner provided in section 34-1401, *Idaho Code*.

(4) In the event that a petition is found not to have the required number of signatures, the officer shall continue in office and no new recall petition may be circulated for a period of ninety (90) days against the same officer.

History: [S.L. 1972, ch. 283; am.1975, ch. 137; am.1989, ch. 344; am.1993, ch. 313; am.1994, ch. 54; am.1995, ch. 266; am.2004, ch. 164; am.2012, ch. 211; am.2013, ch. 135; am.2020, ch. 81; am. 2021, ch. 325]

34-1708. FORM OF RECALL BALLOT. The ballot at any recall election shall be headed “**RECALL BALLOT**” and on the ballot shall be printed in not more than two hundred (200) words the reason for demanding the recall of the officer named in the recall petition, and in not more than two hundred (200) words the officer’s justification of his course in office. Then the question of whether the officer should be recalled shall be placed on the ballot in a form substantially similar to the following:

FOR recalling _____ who holds office of _____.

AGAINST recalling _____ who holds office of _____.

History: [S.L. 1972, ch. 283; am.1989, ch. 344]

34-1709. OFFICER TO CONTINUE IN OFFICE. The officer named in the recall petition shall continue to perform the duties of his office until the results of the special recall election are officially proclaimed.

History: [S.L. 1972, ch. 283; am. 2021, ch. 325]

34-1710. CONDUCT OF SPECIAL RECALL ELECTION. Special elections for the recall of an officer shall be conducted and the results thereof canvassed and certified in all respects as general elections, except as otherwise provided. Nothing in this chapter shall preclude the holding of a recall election with another election.

History: [S.L. 1972, ch. 283; am.1989, ch. 344; am.1995, ch. 118]

34-1711. CANVASS OF RETURNS. (1) The board of county commissioners shall act as the board of canvassers for all special recall elections that involve elections held wholly or partly within their county.

(a) For all special recall elections involving state officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and shall immediately transmit to the secretary of state an abstract of the votes cast.

(b) Within fifteen (15) days following the special recall election held to recall a state officer, the state board of canvassers shall meet and canvass the votes cast at such election, and the secretary of state shall immediately after the completion thereof, proclaim the results.

(c) For all special recall elections involving county officers, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results.

(d) For all special recall elections involving city or special district officials, the board of county commissioners shall meet within ten (10) days after said election to canvass the votes cast at such election, and the county clerk shall immediately after the completion thereof, proclaim the results. The county clerk shall certify the results of the recall election to the clerk of the political subdivision for which the election was held.

History: [S.L. 1972, ch. 283; am. 2004, ch. 164; am. 2013, ch. 135]

34-1712. GENERAL ELECTION LAWS CONTROL. (1) The provisions relating to general elections, including the payment of expenses of conducting the recall election, shall govern special recall elections except where otherwise provided.

(2) Whenever a special recall election is ordered, notice must be issued in the same manner as for a general election.

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(3) To recall any officer, a majority of the votes cast at the special recall election must be in favor of such recall, and additionally, the number of votes cast in favor of the recall must equal or exceed the votes cast at the last general election for that officer. If the officer was appointed or was not required to stand for election, then a majority of the votes cast in the recall election shall be the number necessary for recall.

(4) If recalled, an officer shall be recalled as of the time when the results of the special recall election are proclaimed, and a vacancy in the office shall exist.

(5) If an officer is recalled from his office the vacancy shall be filled in the manner provided by law for filling a vacancy in that office arising from any other cause.

History: [S.L. 1972, ch. 283; am. 1975, ch. 137; am. 2003, ch. 57; am. 2013, ch. 135]

34-1713. TIME WITHIN WHICH RECALL MAY BE FILED—REMOVAL OF SIGNATURES. (1) No petition for a recall shall be circulated against any officer until he has actually held office under the current term for at least ninety (90) days.

(2) After one (1) special recall election, no further recall petition shall be filed against the same officer during his current term of office, unless the petitioners first pay into the public treasury which has paid such special recall election expenses the whole amount of the expenses for the preceding recall election. The specific reason for recall in one (1) recall petition for which an election has been held cannot be the basis for a second recall petition during that current term of office.

(3) The signer of any recall petition may remove his own name from the petition by crossing out, obliterating, or otherwise defacing his own signature at any time prior to the time when the petition is filed.

History: [S.L. 1972, ch. 283; am. 1975, ch. 137; am. 2004, ch. 164; am. 2013, ch. 135]

34-1714. PROHIBITED ACTS—PENALTIES. (1) A person is guilty of a felony who:

- (a) Signs any name other than his own to any recall petition;
- (b) Knowingly signs his name more than once on the same recall petition;
- (c) Knowingly signs his name to any recall petition for the recall of any state, county, city, or special district officer if he is not a registered elector;
- (d) Wilfully or knowingly circulates, publishes or exhibits any false statement or representation concerning the contents, purport or effect of any recall petition for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such recall petition;
- (e) Presents to any officer for filing any recall petition to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent, or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto;
- (f) Circulates or causes to circulate any recall petition, knowing the same to contain false, forged or fictitious names;
- (g) Makes any false affidavit concerning any recall petition or the signatures appended thereto;
- (h) Offers, proposes or threatens for any pecuniary reward or consideration:
 - (i) To offer, propose, threaten or attempt to sell, hinder or delay any recall petition or any part thereof or any signatures thereon;
 - (ii) To offer, propose or threaten to desist from beginning, promoting or circulating any recall petition;
 - (iii) To offer, propose, attempt or threaten in any manner or form to use any recall petition or any power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

(2) A public officer is guilty of a felony who knowingly makes any false return, certification or affidavit concerning any recall petition, or the signatures appended thereto.

History: [S.L. 1972, ch. 283; am. 1972, ch. 382; am. 2021, ch. 325]

34-1715. REFUSAL TO ACCEPT PETITION—MANDATE—INJUNCTION. If the secretary of state or county clerk refuses to accept and file any petition for the recall of a public officer with the requisite number of eligible signatures, any citizen may apply within ten (10) business days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state or county clerk shall then accept and file the recall petition, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office, except that the time limitations required by section 34-1704 (2), *Idaho Code*, shall begin to run only as of the date of the court judgment, which shall be so stated in the judgment. On a showing that the petition is not legally sufficient, the court may enjoin the secretary of state or county clerk and all other officers from certifying or printing any official ballot for a recall election. All such suits shall be advanced on the court docket and heard

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and decided by the court as quickly as possible. Either party may appeal to the court of appeals within ten (10) business days after a decision is rendered. The district court of the state of Idaho in and for Ada County shall have jurisdiction in all cases involving the recall of state officers.

History: [S.L. 1972, ch. 283; am. 2004, ch. 164; am. 2021, ch. 325]

Chapter 18: Initiative and Referendum Elections

34-1801. STATEMENT OF LEGISLATIVE INTENT AND LEGISLATIVE PURPOSE. The legislature of the state of Idaho finds that there have been incidents of fraudulent and misleading practices in soliciting and obtaining signatures on initiative or referendum petitions, or both, that false signatures have been placed upon initiative or referendum petitions, or both, that difficulties have arisen in determining the identity of petition circulators and that substantial danger exists that such unlawful practices will or may continue in the future. In order to prevent and deter such behavior, the legislature determines that it is necessary to provide easy identity to the public of those persons who solicit or obtain signatures on initiative or referendum petitions, or both, and of those persons for whom they are soliciting and obtaining signatures and to inform the public concerning the solicitation and obtaining of such signatures. It is the purpose of the legislature in enacting this act to fulfill the foregoing statement of intent and remedy the foregoing practices.

History: [S.L. 1997, ch. 266]

34-1801A. PETITION. (1) An initiative petition shall embrace only one (1) subject and matters properly connected with it. (2) The following shall be substantially the form of petition for any law proposed by the initiative:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

INITIATIVE PETITION

To the Honorable _____, Secretary of State of the State of Idaho:

We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law (setting out full text of measure proposed) shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the _____ day

of _____, A.D., _____, and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and legislative district are correctly written after my name.

Signature	Printed Name	Residence and Number	Street	City	Date	Legislative Official Use Only	District
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(Here follow no more than twenty numbered lines for signatures.)

(3) The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

History: [S.L. 1933, ch. 210; am. 1988, ch. 48; am. and redesig. 1997, ch. 266; am. 2013, ch. 214; am. 2013, ch. 336; am. 2019, ch. 96; am. 2020, ch. 336]

34-1801B. INITIATIVE AND REFERENDUM PROCEDURES FOR CITIES. Each city shall allow direct legislation by the people through the initiative and referendum. Cities shall follow the procedures set forth in this chapter subject to the following provisions:

(1) The city attorney shall perform the duties assigned to the attorney general.

(2) The city clerk shall perform those duties assigned to the secretary of state.

(3) City initiative and referendum elections shall be held on the Tuesday following the first Monday in November in odd-numbered years.

(4) An action brought pursuant to section 34-1809, *Idaho Code*, challenging the ballot title or short title shall be brought in the district court in the county in which the city is located.

(5) Pursuant to section 34-1809, *Idaho Code*, the city attorney shall prepare recommendations concerning revision of the initiative or referendum, issue a certificate of review to the city clerk, and shall prepare the ballot title and short title.

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(6) To be eligible to sign a petition for city initiative or referendum a person shall be a qualified elector of the city at the time of signing thereon.

(7) To perfect a petition for city initiative or referendum the petition shall have signatures from at least twenty percent (20%) of the total number of qualified electors voting in the last general city election in November of an odd-numbered year.

(8) The provisions of section 34-1805, *Idaho Code*, relating to the number of required signatures and geographic distribution of signatures shall not apply to city initiative or referendum.

(9) Any person who circulates a petition for city initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age, and pursuant to section 34-1807, *Idaho Code*, shall certify their belief that each signer of the petition is a qualified elector of the state of Idaho and the city.

(10) A copy of all petitions and signature sheets shall be kept by the city clerk as a public record.

(11) The prospective petition for referendum, as provided by section 34-1804, *Idaho Code*, shall be filed not more than sixty (60) days following publication of the adopted ordinance as provided by section 50-901, *Idaho Code*.

(12) The deadline for submission of signatures to the city clerk is one hundred eighty (180) days after the petitioners for initiative or referendum receive the official ballot title from the city clerk, or April 30 of the year of the initiative or referendum election, whichever is earlier.

(13) Petitioners must submit the signed initiative or referendum petitions to the county clerk for verification not later than the close of business on the first day of May in the year of the initiative or referendum election, or one hundred eighty (180) days after the petitioners receive the official ballot title from the city clerk, whichever is earlier.

(14) The county clerk has sixty (60) calendar days to verify the signatures as provided in subsection (3) of section 34-1802, *Idaho Code*.

(15) The city council shall have the option to adopt the ordinance proposed by initiative within thirty (30) days after the notification pursuant to section 34-1807, *Idaho Code*, provided that the petition has the required number of signatures. The city council shall hold a public hearing on the proposed ordinance within the thirty (30) day period, preceded by legal notice published once in the official city newspaper at least seven (7) days preceding the hearing. If the ordinance is not adopted by the council by the end of the thirty (30) day period, the initiative shall be put on the ballot.

(16) As provided by sections 34-1812A through 34-1812C, *Idaho Code*, a voters' pamphlet shall be prepared by the city clerk.

(17) To be passed into law an initiative or referendum shall be approved by a majority of the votes cast on the measure.

(18) The mayor shall issue the proclamation provided by section 34-1813, *Idaho Code*.

(19) The city clerk shall publish an ordinance adopted by initiative or referendum within thirty (30) days after the proclamation by the mayor provided in subsection (18) of this section.

(20) All city ordinances setting forth procedures for initiative or referendum are void on July 1, 2015.

(21) This section does not apply to bond elections.

(22) This section does not apply to any local zoning legislation including, but not limited to, ordinances required or authorized pursuant to chapter 65, title 67, *Idaho Code*.

History: [S.L. 2015, ch. 285, am. 2018 Ch. 238]

34-1801C. INITIATIVE AND REFERENDUM PROCEDURES FOR COUNTIES. Each county shall allow direct legislation by the people through the initiative and referendum. Counties shall follow the procedures set forth in this chapter subject to the following provisions:

(1) The county prosecuting attorney shall perform the duties assigned to the attorney general.

(2) The county clerk shall perform those duties assigned to the secretary of state.

(3) County initiative and referendum elections shall be held pursuant to section 34-106(8), *Idaho Code*.

(4) Pursuant to section 34-1809, *Idaho Code*, the county prosecuting attorney shall prepare recommendations concerning revision of the initiative or referendum, issue a certificate of review to the county clerk and prepare the ballot title and short title.

(5) An action brought pursuant to section 34-1809, *Idaho Code*, challenging the ballot title or short title shall be brought in the district court of the county.

(6) To be eligible to sign a petition for county initiative or referendum, a person shall be a qualified elector of the county at the time of signing the petition.

(7) To perfect a petition for county initiative or referendum, the petition shall have signatures from at least twenty percent (20%) of the total number of qualified electors voting in the last general county election in November of an even-numbered year.

(8) The provisions of section 34-1805, *Idaho Code*, relating to the number of required signatures and geographic distribution of signatures shall not apply to a county initiative or referendum.

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(9) Any person who circulates a petition for county initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age, and pursuant to section 34-1807, *Idaho Code*, shall certify his belief that each signer of the petition is a qualified elector of the state of Idaho and the county.

(10) A copy of all petitions and signature sheets shall be kept by the county clerk as a public record.

(11) The prospective petition for referendum, as provided by section 34-1804, *Idaho Code*, shall be filed no more than sixty (60) days following publication of the adopted ordinance as provided by section 31-715, *Idaho Code*.

(12) Petitioners must submit the signed initiative or referendum petitions to the county clerk for verification no later than one hundred eighty (180) days after the petitioners receive the official ballot title from the county clerk, or one hundred eighty (180) days before the election at which the initiative or referendum is to be voted on, whichever is earlier.

(13) The county clerk has sixty (60) calendar days to verify the signatures as provided in section 34-1802(3), *Idaho Code*.

(14) The board of county commissioners shall have the option to adopt the ordinance proposed by initiative within thirty (30) days after the notification pursuant to section 34-1807, *Idaho Code*, provided that the petition has the required number of signatures. The board of county commissioners shall hold a public hearing on the proposed ordinance within the thirty (30) day period, preceded by legal notice published once in the county at least seven (7) days preceding the hearing. If the ordinance is not adopted by the board of county commissioners by the end of the thirty (30) day period, the initiative shall be put on the ballot.

(15) As provided by sections 34-1812A through 34-1812C, *Idaho Code*, a voters' pamphlet shall be prepared by the county clerk.

(16) To be passed into law, an initiative or referendum shall be approved by a majority of the votes cast on the measure.

(17) The board of county commissioners shall issue the proclamation provided by section 34-1813, *Idaho Code*.

(18) The county clerk shall publish an ordinance adopted by initiative or referendum within thirty (30) days after the proclamation by the board of county commissioners provided in subsection (17) of this section.

(19) All county ordinances setting forth initiative or referendum procedures are void on July 1, 2018.

(20) This section does not apply to bond elections.

(21) This section does not apply to zoning legislation including, but not limited to, ordinances required or authorized pursuant to chapter 65, title 67, *Idaho Code*.

History: [S.L. 2018, ch. 238]

34-1802. INITIATIVE PETITIONS - TIME FOR GATHERING SIGNATURES—TIME FOR SUBMISSION OF SIGNATURES TO THE COUNTY CLERK—TIME FOR FILING. (1) Except as provided in section 34-1804, *Idaho Code*, petitions for an initiative shall be circulated and signatures obtained beginning upon the date that the petitioners receive both the fiscal impact statement and the official ballot title from the secretary of state and extending eighteen (18) months from that date, or April 30 of the year of the next general election, whichever occurs earlier. The last day for circulating petitions and obtaining signatures shall be the last day of April in the year an election on the initiative will be held.

(2) The person or persons or organization or organizations under whose authority the measure is to be initiated shall submit the petitions containing signatures to the county clerk for verification pursuant to the provisions of section 34-1807, *Idaho Code*. The signatures required shall be submitted to the county clerk not later than the close of business on the first day of May in the year an election on the initiative will be held, or eighteen (18) months from the date the petitioner receives the official ballot title from the secretary of state, whichever is earlier.

(3) The county clerk shall, within sixty (60) calendar days of the deadline for the submission of the signatures, verify the signatures contained in the petitions, but in no event shall the time extend beyond the last day of June in the year an election on the initiative will be held.

(4) Initiative petitions with the requisite number of signatures attached shall be filed with the secretary of state not less than four (4) months before the election at which they are to be voted upon.

History: [S.L. 1933, ch. 210; am.1997, ch. 266; am.2011, ch. 285; am. 2020, ch. 317]

34-1803. REFERENDUM PETITIONS—TIME FOR FILING—WHEN ELECTION HELD—EFFECTIVE DATE OF LAW. Referendum petitions with the requisite number of signatures attached, as verified by county clerks pursuant to section 34-1807, *Idaho Code*, shall be filed with the secretary of state not more than sixty (60) days after the final adjournment of the session of the state legislature that passed on the bill on which the referendum is demanded. All elections on measures referred to the people of the state shall be had at the biennial regular election. Any measure so referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

History: [S.L. 1933, ch. 210; am. 2021, ch. 262]

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34-1803B. INITIATIVE AND REFERENDUM PETITIONS—REMOVAL OF SIGNATURES. (1) The signer of any initiative or referendum petition may remove his or her own name from the petition by crossing out, obliterating or otherwise defacing his or her own signature at any time prior to the time when the petition is presented to the county clerk for signature verification.

(2) The signer of any initiative or referendum petition may have his or her name removed from the petition at any time after presentation of the petition to the county clerk but prior to verification of the signature, by presenting in writing or submitting electronically to the county clerk a signed statement that the signer desires to have his name removed from the petition. The statement shall contain sufficient information to clearly identify the signer. The county clerk shall immediately strike the signer's name from the petition, and adjust the total of certified signatures on the petition accordingly. The statement shall be attached to, and become a part of the initiative or referendum petition.

(3) Each signature page of an initiative or referendum petition shall state that any person signing a petition may remove his signature pursuant to this section.

History: [S.L. 1997, ch. 266; am.2020, ch. 336]

34-1804. INITIAL FILING OF BALLOT MEASURE—PRINTING OF PETITION AND SIGNATURE SHEETS—PROPOSED FUNDING AND FISCAL INFORMATION. (1) Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the state legislature of the state of Idaho, or for any law proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the secretary of state a copy of such petition duly signed by at least twenty (20) qualified electors of the state which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the attorney general for the issuance of the certificate of review as provided in section 34-1809, *Idaho Code*.

(2) In the case of an initiative petition, the person or persons or organization or organizations under whose authority the measure is to be initiated shall propose a funding source for the cost of implementing the measure. The proposed funding source information shall accompany a copy of the initiative when the petition is initially filed with the secretary of state under subsection (1) of this section, and whenever the petition is circulated for signatures, but the proposed funding source information shall not formally be part of the initiative and shall have no binding effect. Upon receipt of the petition and the proposed funding source information, the secretary of state shall immediately transmit a copy of the petition and proposed funding source information to the division of financial management so that it may issue a statement of fiscal impact as provided in section 34-1812, *Idaho Code*. The provisions of this subsection shall not apply to a city or county ballot initiative.

(3) All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper in the form and manner as approved by the secretary of state. To every sheet of petitioners' signatures shall be attached a full and correct copy of the measure so proposed by initiative petition and a copy of the fiscal impact statement summary for the initiative, if applicable; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Every sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty (20) signatures on one (1) sheet shall be counted. Each signature sheet shall contain signatures of qualified electors from only one (1) county.

History: [S.L. 1933, ch. 210; am. 1988, ch. 48; am. 2013, ch. 214; am. 2013, ch. 336; am. 2020, ch. 317]

34-1805. SPONSORS TO PRINT PETITION—NUMBER OF SIGNERS REQUIRED. (1) After the form of the initiative or referendum petition has been approved by the secretary of state as provided in sections 34-1801A through 34-1822, *Idaho Code*, the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the several counties of the state for the signatures of legal voters.

(2) Before such petitions shall be entitled to final filing and consideration by the secretary of state, there shall be affixed thereto the signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors at the time of the last general election in each of the thirty-five (35) legislative districts.

History: [S.L. 1933, ch. 210; am. 1997, ch. 266; am. 2007, ch. 202; am. 2013, ch. 214; am. 2021, ch. 255]

34-1806. BINDING OF PETITION AND SIGNATURE SHEETS—APPROVED MEASURES TO BE PRINTED WITH SESSION LAWS. When any such initiative or referendum petition shall be offered for filing the secretary of state shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petitions. The secretary of state shall file and keep such petitions as

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official public records. The secretary of state shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the state legislature with the date of the governor's proclamation declaring the same to have been approved by the people.

History: [S.L. 1933, ch. 210; am. 1988, ch. 48]

34-1807. CIRCULATION OF PETITIONS—VERIFICATION OF PETITION AND SIGNATURE SHEETS—COMPARISON OF SIGNATURES WITH REGISTRATION OATHS AND RECORDS—CERTAIN PETITIONS AND SIGNATURES VOID. (1) Any person who circulates any petition for an initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho)
) ss.

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, address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of _____.

Signed _____

Post office address _____

Subscribed and sworn to before me this _____ day
of _____, _____.

(Notary Seal)

Notary Public

Residing at _____

(2) In addition to said affidavit, the county clerk shall carefully examine said petitions and strike from the petition any names for which he has determined that the name, address, or signature do not match those of a qualified elector of the proper jurisdiction. The county clerk shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho)
) ss.

County of)

To the honorable _____, Secretary of State for the State of Idaho: I, _____, County Clerk of _____, County, hereby certify that _____ signatures on this petition are those of qualified electors in legislative district number _____.

Signed _____

County Clerk or Deputy.

(Seal of office)

(3) The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

(4) Any petition upon which signatures are obtained by a person not a resident of the state of Idaho and at least eighteen (18) years of age shall be void. The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions.

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(5) Any signature that is not a physical signature, including an electronic signature, is void.

History: [S.L. 1933, ch. 210; am. 1988, ch. 48; am. 1997, ch. 266; am. 1999, ch. 47; am. 2013, ch. 214; am. 2013, ch. 336; am. 2021, ch. 262]

34-1808. FILING OF PETITION—MANDATE—INJUNCTION. If the secretary of state shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of qualified electors thereto attached, any citizen may apply, within ten (10) days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the Supreme Court within ten (10) days after a decision is rendered. The district court of the fourth judicial district of the state of Idaho in and for Ada County shall have jurisdiction in all cases of measures to be submitted to the qualified electors of the state at large.

History: [S.L. 1933, ch. 210; am. 1988, ch. 48]

34-1809. REVIEW OF INITIATIVE AND REFERENDUM MEASURES BY ATTORNEY GENERAL — CERTIFICATE OF REVIEW PREREQUISITE TO ASSIGNMENT OF BALLOT TITLE — BALLOT TITLE — JUDICIAL REVIEW. (1) After receiving a copy of the petition from the secretary of state as provided in section 34-1804, *Idaho Code*:

(a) The attorney general may confer with the petitioner and shall, within twenty (20) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate.

(b) The recommendations of the attorney general shall be advisory only and the petitioner may accept or reject them in whole or in part.

(c) The attorney general shall issue a certificate of review to the secretary of state certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. The certificate of review shall be available for public inspection in the office of the secretary of state.

(2) Within fifteen (15) working days after the issuance of the certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the measure, as herein provided, with the secretary of state for assignment of a ballot title, and the secretary of state shall thereupon submit to the attorney general two (2) copies of the measure filed.

(a) Within ten (10) working days after receiving copies of the petition, the attorney general shall provide ballot titles as provided for in this subsection and return one (1) copy of the petition to the secretary of state, with its ballot title.

(b) A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with the approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred.

(c) The ballot titles shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures.

(d) The ballot title shall contain:

(i) Distinctive short title not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition.

(ii) A general title expressing in not more than two hundred (200) words the purpose of the measure.

(iii) The ballot title shall be printed with the numbers of the measure on the official ballot.

(e) In making the ballot title, the attorney general shall, to the best of his ability, give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure.

(3) Any person dissatisfied with the ballot title or the short title provided by the attorney general for any measure may appeal to the supreme court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair.

(a) No appeal shall be allowed from the decision of the attorney general on a ballot title unless made within twenty (20) days after the ballot title is filed in the office of the secretary of state; provided however, that this section shall not prevent any later judicial proceeding to determine the sufficiency of such title, nor shall it prevent any judicial decision upon the sufficiency of such title.

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(b) A copy of every such ballot title shall be served by the secretary of state upon the person offering or filing such initiative or referendum petition, or appeal. The service of the ballot title may be by mail or electronic transmission and shall be made forthwith when it is received from the attorney general by the secretary of state.

(c) The supreme court shall thereupon examine said measure, hear argument, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him.

(4) Any qualified elector of the state of Idaho may, at any time after the attorney general has issued a certificate of review, bring an action in the supreme court to determine the constitutionality of any initiative.

History: [34-1809, added 1933, ch. 210, sec. 9, p. 431; am. 1979, ch. 106, sec. 1, p. 340; am. 1988, ch. 48, sec. 6, p. 70; am. 1994, ch. 400, sec. 1, p. 1263; am. 1997, ch. 266, sec. 7, p. 760; am. 2003, ch. 147, sec. 1, p. 423; am. 2019, ch. 96, sec. 16, p. 353]

34-1810. PRINTING AND DESIGNATION OF BALLOT TITLES ON OFFICIAL BALLOTS. (1) The secretary of state, at the time he furnishes to the county clerks of the several counties certified copies of the names of candidates for state and district offices shall furnish to each of said county clerks a certified copy of the ballot titles and numbers of the several measures to be voted upon at the ensuing general election, and he shall use for each measure the ballot title designated in the manner herein provided.

(a) Such ballot title shall not resemble, so far as to probably create confusion, any such title previously filed for any measure to be submitted at that election.

(b) The ballot shall include a clear and concise statement as to the effect of a “yes” or “no” vote, prepared jointly by the attorney general and secretary of state.

(2) The secretary of state shall number the measures consecutively beginning with number (1), in the order in which the measures were finally filed with the secretary. The measures shall be designated on the ballot as a “**Proposition One**,” “**Proposition Two**,” et cetera.

History: [S.L. 1933, ch. 210; am. 1988, ch. 48; am. 2003, ch. 147]

34-1811. MANNER OF VOTING—PROCEDURE WHEN CONFLICTING MEASURES APPROVED. The manner of voting upon measures submitted to the people shall be the same as is now or may be required and provided by law; no measure shall be adopted unless it shall receive an affirmative majority of the aggregate number of votes cast on such measure. If two (2) or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two (2) or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such amendment may not have received the greatest majority of affirmative votes.

History: [S.L. 1933, ch. 210]

34-1812. FISCAL IMPACT STATEMENTS. (1) (1) After receiving a copy of an initiative petition from the secretary of state as provided in section ~~34-1804~~, *Idaho Code*, the division of financial management, in consultation with any other appropriate state or local agency, shall prepare an unbiased, good faith statement of the fiscal impact of the law proposed by the initiative. The division of financial management shall complete the fiscal impact statement and file it with the secretary of state’s office within twenty (20) working days of having received the initiative petition from the secretary of state’s office. The secretary of state shall immediately transmit a copy of the fiscal impact statement to the person or persons who filed the initiative petition pursuant to section ~~34-1804~~, *Idaho Code*.

(2) A fiscal impact statement shall describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state or local governments will experience if the ballot measure is approved by the voters. The fiscal impact statement shall include both immediate expected fiscal impacts and an estimate of any state or local government long-term financial implications. A fiscal impact statement must be written in clear and concise language and shall avoid legal and technical terms whenever possible. Where appropriate, a fiscal impact statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context.

(3) A fiscal impact statement must include both a summary of the fiscal impact statement, not to exceed one hundred (100) words, and a more detailed statement of fiscal impact that includes the assumptions that were made to develop the fiscal impact. When collecting signatures, a signature gatherer shall offer a copy of the fiscal impact statement summary, along with a copy of the initiative and the sponsor’s proposed funding source information, to the elector for review before signing. The fiscal impact statement summary and the sponsor’s proposed funding source information shall also be

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published in the state voters' pamphlet and on the official ballot. The fiscal impact statement summary, the detailed fiscal impact statement, and the sponsor's proposed funding source information shall be made available to the public on the secretary of state's website no later than August 1.

(4) The provisions of this section shall not apply to a city or county ballot initiative.

History: [S.L. 2020, ch. 317]

34-1812A. ARGUMENTS CONCERNING INITIATIVE AND REFERENDUM MEASURES. Any voter or group of voters may on or before July 20 prepare and file an argument, not to exceed five hundred (500) words, for or against any measure. Such argument shall not be accepted unless accompanied by the name and address or names and addresses of the person or persons submitting it, or, if submitted on behalf of an organization, the name and address of the organization and the names and addresses of at least two (2) of its principal officers.

If more than one (1) argument for or more than one (1) argument against any measure is filed within the time prescribed, the secretary of state shall select one (1) of the arguments for printing in the voters' pamphlets. In selecting the argument the secretary of state shall be required to give priority in the order named to the arguments of the following:

- (1) The proponent of the initiative or referendum petition.
- (2) Bona fide associations of citizens.
- (3) Individual voters.

History: [S.L. 1979, ch. 135]

34-1812B. SUBMISSION OF REBUTTAL ARGUMENTS. When the secretary of state has received the arguments which will be printed in the voters' pamphlet, the secretary of state shall immediately send copies of the arguments in favor of the proposition to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor. The authors may prepare and submit rebuttal arguments not exceeding two hundred and fifty (250) words. The rebuttal arguments must be filed no later than August 1. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

History: [S.L. 1979, ch. 135]

34-1812C. VOTERS' PAMPHLET. (1) Not later than September 25 before any regular general election at which an initiative or referendum measure is to be submitted to the people, the secretary of state shall cause to be printed a voters' pamphlet which shall contain the following:

- (a) A complete copy of the title and text of each measure with the number and form in which the ballot title thereof will be printed on the official ballot;
- (b) A copy of the fiscal impact statement summary for a state measure;
- (c) A copy of the sponsor's proposed funding source information for a state measure; and
- (c) A copy of the arguments and rebuttals for and against each state measure.

(2) The secretary of state shall mail or distribute a copy of the voters' pamphlet to every household in the state. Sufficient copies of the voters' pamphlet shall also be sent to each county clerk. The county clerk and the secretary of state shall make copies of the voters' pamphlet available upon request.

(3) The voters' pamphlet shall be printed according to the following specifications:

- (a) The pages of the pamphlet shall be not smaller than 6 x 9 inches in size;
- (b) It shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in no less than 7-point type;
- (c) It shall be printed on a quality and weight of paper that, in the judgment of the secretary of state, best serves the voters;
- (d) If the material described in subsection (1) of this section is combined in a single publication with constitutional amendments, the entire publication shall be treated as a legal notice.

History: [S.L. 1979, ch. 135; am.1984, ch. 114; am.2020, ch. 317]

34-1813. COUNTING, CANVASSING, AND RETURN OF VOTES—EFFECTIVE DATES. (1) The votes on measures and questions shall be counted, canvassed, and returned by the regular boards of judges, clerks, and officers, as votes for candidates are counted, canvassed, and returned, and the abstract made by the several county auditors of votes on measures shall be returned to the secretary of state on separate abstract sheets in the manner provided for abstract of votes for state and county officers. It shall be the duty of the secretary of state, in the presence of the governor, to proceed within thirty (30) days after the election, and sooner if the returns be all received, to canvass the votes given for each measure, and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against such measure and question and declaring such measures as are approved by a majority of those voted thereon to be in full force

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and effect as the law of the state of Idaho from the date of said proclamation for any referendum measure. The effective date for an initiative measure shall be governed by the provisions of subsection (2) of this section. If two (2) or more measures shall be approved at said election which are known to conflict with each other or to contain conflicting provisions, he shall also proclaim which is paramount in accordance with the provisions of sections 34-1801 through 34-1822, *Idaho Code*.

(2)(a) A statewide initiative may contain an effective date, if passed, that shall be no earlier than July 1 of the year following the vote on the ballot initiative. If no effective date is specified in the petition, the effective date of a statewide initiative that has been approved by the electorate shall be July 1 of the following year.

(b) A city or county initiative may contain an effective date, if passed, that may be earlier than July 1 of the year following the vote on the ballot initiative, but no earlier than the mayor's proclamation as provided in section 34-1801B, *Idaho Code*, or the proclamation by the board of county commissioners, as provided in section 34-1801C, *Idaho Code*. If no effective date is specified in the petition, the effective date of a city or county initiative that has been approved by the electorate shall be July 1 of the following year.

History: [S.L. 1933, ch. 210; am.2020, ch. 336]

34-1814. WHO MAY SIGN PETITION—EFFECT OF WRONGFUL SIGNING—PENALTY FOR WRONGFUL SIGNING.

Every person who is a qualified elector of the state of Idaho may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any officer or person wilfully violating any provision of this statute, shall, upon conviction thereof be punished by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the penitentiary not exceeding two (2) years, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had. Any such wrongful signatures are null and void and shall not be counted as a qualified signature. Any person circulating a petition, who knows, or who in the exercise of reasonable care should know, that a signature is forged and who shall thereafter fail to strike through and thereby void such signature, and any person in a position of supervision of such person who suffers or permits a forged signature to remain on a petition shall pay a fine of not less than one thousand dollars (\$1,000) for each such signature.

History: [S.L. 1933, ch. 210; am.1997, ch. 266]

34-1814A. [REPEALED: AM. 1999, ch. 47]

34-1815. FALSE STATEMENTS SPOKEN OR WRITTEN CONCERNING PETITION UNLAWFUL—FAILURE TO DISCLOSE MATERIAL PROVISIONS. It shall be unlawful for any person to wilfully or knowingly circulate, publish or exhibit any false statement or representation, whether spoken or written, or to fail to disclose any material provision in a petition, concerning the contents, purport or effect of any petition mentioned in sections 34-1801A through 34-1822, *Idaho Code*, for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition. It shall be unlawful for any person to solicit or obtain any signature on a petition without first showing the signer both the short title and the general title as defined in section 34-1809, *Idaho Code*, so that the signer has an opportunity to read them before signing the petition.

Any signature obtained without compliance with this section is null and void.

History: [S.L. 1933, ch. 210; am.1997, ch. 266]

34-1816. FILING PETITION WITH FALSE SIGNATURES UNLAWFUL. It shall be unlawful for any person to file in the office of any officer provided by law to receive such filing any petition mentioned in sections 34-1801–34-1822, to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto.

History: [S.L. 1933, ch. 210]

34-1817. CIRCULATING PETITION WITH FALSE, FORGED, OR FICTITIOUS NAMES UNLAWFUL. It shall be unlawful for any person to circulate or cause to be circulated any petition mentioned in sections 34-1801–34-1822, knowing the same to contain false, forged or fictitious names.

History: [S.L. 1933, ch. 210]

34-1818. FALSE AFFIDAVIT BY ANY PERSON UNLAWFUL. It shall be unlawful for any person to make any false affidavit concerning any petition mentioned in sections 34-1801–34-1822, or the signatures appended thereto.

History: [S.L. 1933, ch. 210]

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34-1819. FALSE RETURN, CERTIFICATION OR AFFIDAVIT BY PUBLIC OFFICIAL UNLAWFUL. It shall be unlawful for any public official or employee knowingly to make any false return, certification or affidavit concerning any petition mentioned in sections 34-1801–~~34-1822~~, or the signatures appended thereto.

History: [S.L. 1933, ch. 210]

34-1820. SIGNING MORE THAN ONCE OR WHEN NOT QUALIFIED UNLAWFUL. It shall be unlawful for any person to knowingly sign his own name more than once to any petition mentioned in sections 34-1801–~~34-1822~~, or to sign his name to any such petition knowing himself at the time of such signing not to be qualified to sign the same.

History: [S.L. 1933, ch. 210]

34-1821. FELONIOUS ACTS ENUMERATED. It shall be a felony for any person to offer, propose or threaten to do any act mentioned in this section of or concerning any petition mentioned in sections 34-1801–~~34-1822~~, for any pecuniary reward or consideration:

(a) To offer, propose, threaten or attempt to sell, hinder or delay any petition or any part thereof or of any signatures thereon mentioned in sections 34-1801–~~34-1822~~;

(b) To offer, propose, or threaten to desist, for a valuable consideration, from beginning, promoting or circulating any petition mentioned in sections 34-1801–~~34-1822~~, or soliciting signatures to any such petition;

(c) To offer, propose, attempt or threaten in any manner or form to use any petition or power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

History: [S.L. 1933, ch. 210]

34-1822. PENALTY FOR VIOLATIONS. Any person, either as principal or agent, violating any of the provisions of sections 34-1801–~~34-1822~~ shall be punished upon conviction by imprisonment in the penitentiary or in the county jail not exceeding two (2) years, or by a fine not exceeding \$5000.00, or by both, excepting that imprisonment in the penitentiary and punishment by a fine shall be the only penalty for violation of any provision of section 34-1821.

History: [S.L. 1933, ch. 210]

34-1823. SEVERABILITY. In the event that any part of chapter 18, title 34, Idaho Code, shall for any reason be determined void or unenforceable in any part thereof, the remainder thereof shall remain in full force and effect.

History: [S.L. 1997, ch. 266]

Chapter 19: Number of Congressional Districts

34-1901. NUMBER OF CONGRESSIONAL DISTRICTS. For the election of representatives in Congress, the state of Idaho is divided into two (2) congressional districts.

History: [(34-1901) 1917, ch. 121, sec. 1, p. 408; compiled and reen. C.L. 6:1; C.S., sec. 66; I.C.A., sec. 33-1601]

34-1902–34-1903. [REPEALED: AM. 1970, ch. 140]

Sections 34-1901 through 34-1903 have been superseded and replaced by the Commission on Reapportionment as authorized by Article 3, Section 2, Idaho Constitution.

Chapter 20: Election Contests Other Than Legislative and State Executive Offices

34-2001. GROUNDS OF CONTEST. The election of any person to any public office, the location or relocation of a county seat, or any proposition submitted to a vote of the people may be contested:

(1) For malconduct, fraud, or corruption on the part of the judges of election in any precinct, township or ward, or of any board of canvassers, or any member of either board sufficient to change the result.

(2) When the incumbent was not eligible to the office at the time of the election.

(3) When the incumbent has been convicted of felony, unless at the time of the election he shall have been restored to civil rights.

(4) When the incumbent has given or offered to any elector, or any judge, clerk or canvasser of the election, any bribe or reward in money or property for the purpose of procuring his election, or has committed any violation as set out in chapter 23, title 18, Idaho Code.

(5) When illegal votes have been received or legal votes rejected at the polls sufficient to change the result.

(6) For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result.

(7) When the incumbent is in default as a collector and custodian of public money or property.

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(8) For any cause which shows that another person was legally elected.

History: [1890-1981, p. 57, sec. 132; reen. 1899, p. 33, sec. 119; reen. R.C. & C.L., sec. 5026; C.S., sec. 7274; I.C.A., sec. 33-1701; am.1982, ch. 209]

34-2001A. BOND ELECTION AND MILL LEVY CONTESTS—TIME FOR FILING—VALIDATION OF ELECTIONS AND BONDS. (1) The provisions of this chapter with respect to the contest of elections shall be applicable to bond elections conducted by cities, counties, school districts, and water and sewer districts, and to elections conducted by school districts for levy increases as authorized by sections 33-802, 33-803 and 33-804, *Idaho Code*. Any such contest shall be regarded as one contesting the outcome of the vote on the bond or levy proposition, rather than election to office, and the public entity calling the election, rather than a person declared to have been elected to office, shall be regarded as the defendant.

(2) When the validity of any bond or levy election is contested on any of the grounds enumerated in section 34-2001, *Idaho Code*, on the grounds of a failure to comply with the requirements of section 34-913 or 34-914, *Idaho Code*, or on any other grounds whatsoever the plaintiff or plaintiffs must, within forty (40) days after the votes are canvassed and the results thereof declared, file in the proper court a verified written complaint setting forth, in addition to the other requirements of this chapter, the following:

(a) The name of the party contesting the bond or levy election, and that he is an elector of the public entity conducting the bond or levy election;

(b) The proposition or propositions voted on at the election that are contested; and

(c) The particular grounds of such contest.

(3) No such election contest shall be maintained and no bond or levy election shall be set aside or held invalid unless a complaint is filed as permitted under this section within the period prescribed in this section.

(4) All bond elections conducted by cities, counties, school districts and water and sewer districts prior to the effective date of this act, and all proceedings had in the authorization and issuance of the bonds authorized thereat, are hereby validated, ratified, and confirmed and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which is being contested at the time this act takes effect, or any election, the legality of which is contested within the forty (40) day period from and after the effective date of this act.

History: [I.C., sec. 34-2001A, as added by 1969, ch. 208; am.1976, ch. 291; am. 2021, ch. 288]

34-2002. TERM INCUMBENT DEFINED. The term “**incumbent**” in this chapter means the person whom the canvassers declare elected.

History: [1890-1891, p. 57, sec. 133; reen. 1899, p. 33, sec. 120; reen, R.C. & C.L., sec. 5027; C.S., sec. 7275; I.C.A., sec. 33-1702]

34-2003. MISCONDUCT OF JUDGES. When the misconduct complained of is on the part of the judges of election, it shall not be held sufficient to set aside the election, unless the vote of the precinct, township or ward would change the result as to that office.

History: [1890-1891, p. 57, sec. 134; reen. 1899, p. 33, sec. 121; reen. R.C. & C.L., sec. 5028; C.S., sec. 7276; I.C.A., sec. 33-1703]

34-2004. JURISDICTION—CONTESTS OVER JUDICIAL OFFICES. The Supreme Court shall hear and determine contests of the election of judges of the Supreme Court and appellate court and judges of the district courts, and in case they shall disagree, the governor shall act with them in determining the contest, but no judge of the Supreme Court shall sit upon the hearing of any case in which he is a party. The appropriate district court shall hear and determine contests of the retention election of judges of the magistrate courts.

History: [1890-1891, p. 57, sec. 137; am. 1899, p. 33, sec. 124; reen. R.C. & C.L., sec. 5029; C.S., sec. 7277; I.C.A., sec. 33-1704; am.1982, ch. 209]

34-2005. JURISDICTION—REMOVAL OF COUNTY SEATS AND SPECIAL QUESTIONS. The district courts of the respective counties shall hear and determine contests of election in regard to the removal of county seats, and in regard to any other subject which may by law be submitted to the vote of the people of the county, and the proceedings therein shall be conducted as near as may be hereinafter provided for contesting the election of county officers.

History: [1890-1891, p. 57, sec. 138; reen. 1899, p. 33, sec. 125; reen. R.C. & C.L., sec. 5030; C.S., sec. 7278; I.C.A., sec. 33-1705]

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34-2006. JURISDICTION—COUNTY AND PRECINCT OFFICERS. The district courts shall hear and determine contests of all other county, township and precinct officers, and officers of the cities and incorporated villages within the county.

History: [1890-1891, p. 57, sec. 139; reen. 1899, p. 33, sec. 126; reen. R.C. & C.L., sec. 5031; C.S., sec. 7279; I.C.A., sec. 33-1706]

34-2007. WHO MAY CONTEST ELECTIONS. The election of any person declared elected to any office, other than executive state officers and members of the legislature, may be contested by any elector of the state, judicial district, county, township, precinct, city or incorporated village in and for which the person is declared elected.

History: [1890-1891, p. 57, sec. 148; reen. 1899, p. 33, sec. 135; reen. R.C. & C.L., sec. 5032; C.S., sec. 7280; I.C.A., sec. 33-1707]

34-2008. COMPLAINT AND SECURITY FOR COSTS. The contestants shall file in the proper court, within twenty (20) days after the votes are canvassed, a complaint setting forth the name of the contestant, and that he is an elector competent to contest such election; the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which complaint shall be verified by the affidavit of the contestant, that the causes set forth are true as he verily believes. The contestant must also file a bond, with security to be approved by the clerk of the court or district judge, as the case may be, conditioned to pay all costs in case the election be confirmed, the complaint dismissed, or the prosecution fail.

History: [1890-1891, p. 57, sec. 149; reen. 1899, p. 33, sec. 136; reen. R.C. & C.L., sec. 5033; C.S., sec. 7281; I.C.A., sec. 33-1708]

34-2009. COMPLAINT—SPECIFIC ALLEGATIONS. When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, if known, with the precinct, township or ward where they voted or offered to vote, shall be set forth in the complaint.

History: [1890-1891, p. 57, sec. 150; reen. 1899, p. 33, sec. 137; reen. R.C. & C.L., sec. 5034; C.S., sec. 7282; I.C.A., sec. 33-1709]

34-2010. ISSUANCE OF SUMMONS. Upon the filing of such complaint summons shall issue against the person whose office is contested, as prescribed in the Idaho Rules of Civil Procedure.

History: [1890-1891, p. 57, sec. 151; reen. 1899, p. 33, sec. 138; reen. R.C. & C.L., sec. 5035; C.S., sec. 7283; I.C.A., sec. 33-1710; am.1982, ch. 209]

34-2011. TIME FOR TRIAL. The cause shall stand for trial at the expiration of thirty (30) days from the time of service of the summons and complaint, if the court shall then be in session; otherwise, on the first day of the next term thereafter.

History: [1890-1891, p. 57, sec. 152; reen. 1899, p. 33, sec. 139; reen. R.C. & C.L., sec. 5036; C.S., sec. 7284; I.C.A., sec. 33-1711]

34-2012. POSTPONEMENT OF TRIAL. The trial shall proceed at the time appointed, unless postponed for good cause shown by affidavit, the terms of which postponement are in the discretion of the court.

History: [1890-1891, p. 57, sec. 153; reen. 1899, p. 33, sec. 140; reen. R.C. & C.L., sec. 5037; C.S., sec. 7285; I.C.A., sec. 33-1712]

34-2013. PROCEDURE IN GENERAL. The proceedings shall be held according to the Idaho Rules of Civil Procedure so far as practicable, but shall be under the control and direction of the court, which shall have all the powers necessary to the right hearing and determination of the matter; to compel the attendance of witnesses, swear them and direct their examination; to punish for contempt in its presence or by disobedience to its lawful mandate; to adjourn from day to day; to make any order concerning immediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case.

History: [1890-1891, p. 57, sec. 154; reen. 1899, p. 33, sec. 141; reen. R.C. & C.L., sec. 5038; C.S., sec. 7286; I.C.A., sec. 33-1713; am.1982, ch. 209]

34-2014. TESTIMONY—SUBPOENA FOR WITNESSES. The testimony may be oral, or by depositions taken pursuant to the Idaho Rules of Civil Procedure. Subpoenas for witnesses may be issued pursuant to the Idaho Rules of Civil Procedure.

History: [1890-1891, p. 57, sec. 155; reen. 1899, p. 33, sec. 142; reen. R.C. & C.L., sec. 5039; C.S., sec. 7287; I.C.A., 33-1714; am.1982, ch. 209]

34-2015. AMENDMENTS. The proceedings shall not be dismissed for want of form, if the particular causes of contest are alleged with such certainty as will sufficiently advise the incumbent of the real grounds of contest. If any part of the causes are held insufficient they may be amended, but the incumbent will be entitled to an adjournment if he state on oath that he

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has a matter to answer to the amended causes, for the preparation of which he needs further time. Such adjournment shall be upon such terms as the court deems reasonable; but if all the causes are held insufficient, and an amendment is asked the adjournment shall be at the cost of the contestant. If no amendment is asked for or made, or in case of entire failure to prosecute, the proceedings may be dismissed.

History: [1890-1891, p. 57, sec. 156; reen. 1899, p. 33, sec. 143; reen. R.C. & C.L., sec. 5040; C.S., sec. 7288; I.C.A., sec. 33-1715]

34-2016. FORM AND SERVICE OF PROCESS. The style, form and manner of service of process and papers, and the fees of officers and witnesses shall be the same as in other cases in the court where the cause is tried.

History: [1890-1891, p. 57, sec. 157; reen. 1899, p. 33, sec. 144; reen. R.C. & C.L., sec. 5041; C.S., sec. 7289; I.C.A., sec. 33-1716]

34-2017. VOTERS TO TESTIFY AS TO QUALIFICATIONS. (a) The court may require any person called as a witness, who voted at such election, to answer touching his qualifications as a voter; and if he was not a qualified voter in the county where he voted, then to answer for whom he voted; and if the witness answer such questions no part of his testimony on that trial shall be used against him in any criminal action.

(b) No testimony shall be received as to any illegal votes unless the party contesting the election delivers to the opposing party at least three (3) days before trial, a written list of the number of illegal votes and by whom given, which he intends to prove on such trial. No testimony shall be received as to any illegal votes, except as to such as are specified in this list.

History: [1890-1891, p. 57, sec. 158; reen. 1899, p. 33, sec. 145; reen. R.C. & C.L., sec. 5042; C.S., sec. 7290; I.C.A., sec. 33-1717; am.1982, ch. 209]

34-2018. INSPECTION OF BALLOTS AND POLL BOOKS. If an inspection of the ballots or poll books of any election district in this state shall become necessary for the determination of any election contest before any court, the presiding judge thereof may, by order naming the district or districts, require the proper officer to procure the same from the county auditor, or other person in whose possession or custody the same may be, and such clerk or person shall deliver the same to said officer, who shall deliver them unopened to such presiding judge.

History: [1890-1891, p. 57, sec. 159; reen. 1899, p. 33, sec. 146; reen. R.C. & C.L., sec. 5043; C.S., sec. 7291; I.C.A., sec. 33-1718]

34-2019. BALLOTS AND POLL BOOKS—RETURN TO COUNTY AUDITOR. The presiding officer shall open and inspect the same in open court, in the presence of the parties or their attorneys, and immediately after such inspection shall again seal them in an envelope and return them, by mail or otherwise, to the office of the county auditor in which they were at first required to be filed.

History: [1890-1891, p. 57, sec. 160; reen. 1899, p. 33, sec. 147; reen. R.C. & C.L., sec. 5044; C.S., sec. 7292; I.C.A., sec. 33-1719]

34-2020. LIABILITY FOR COSTS. (a) The contestant and the incumbent are liable to the officers and witnesses for the costs made by them respectively. But if the election be confirmed, or the complaint be dismissed, or the prosecution fail, judgment shall be rendered against the contestant for costs, and if the judgment be against the incumbent, or the election be set aside, it shall be against him for costs.

(b) If the election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the returns, the contest costs shall be a charge against the county or political subdivision where the election was held.

History: [S.L. 1890-1891, p. 57, sec. 161; reen. 1899, p. 33, sec. 148; reen. R.C. & C.L., sec. 5045; C.S., sec. 7293; I.C.A., sec. 33-1720; am.1982, ch. 209]

34-2021. FORM OF JUDGMENT. The judgment of the court in cases of contested election shall confirm or annul the election according to the right of the matter; or, in case the contest is in relation to the election of some person to an office, shall declare as elected the person who shall appear to be duly elected or, in the alternative, order the office to be filled according to [chapter 9, title 59, Idaho Code](#), or order a new election to be held at a time and place as determined by the court.

History: [1890-1891, p. 57, sec. 162; reen. 1899, p. 33, sec. 149; reen. R.C. & C.L., sec. 5046; C.S., sec. 7294; I.C.A., sec. 33-1721; am.1982, ch. 209]

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34-2022. DETERMINATION OF TIE VOTE. If it appears that two (2) or more persons have—or would have had if the legal ballots cast or intended to be cast for them had been counted—the highest and an equal number of votes for the same office, the persons receiving such votes shall decide by lot, in such manner as the court shall by written order direct, which of them shall be declared duly elected, and the judgment shall be entered accordingly.

History: [1890-1891, p. 57, sec. 163; reen. 1899, p. 33, sec. 150; reen. R.C. & C.L., sec. 5047; C.S., sec. 7295; I.C.A., sec. 33-1722]

34-2023. ORDER FOR POSSESSION. When either the contestant or incumbent shall be in possession of the office by holding over, or otherwise, the court shall, if the judgment be against the party so in possession of the office and in favor of his antagonist, issue an order to carry into effect the judgment of the court, which order shall be under the seal of the court, and shall command the sheriff of the county to put the successful party into possession of the office without delay, and to deliver to him all books and papers belonging to the same; and the sheriff shall execute such order as other writs.

History: [1890-1891, p. 57, sec. 164; reen. 1899, p. 33, sec. 151; reen. R.C. & C.L., sec. 5048; C.S., sec. 7296; I.C.A., sec. 33-1723]

34-2024. ELECTION DECLARED VOID. When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes shall not be declared elected, but the election shall be declared void.

History: [1890-1891, p. 57, sec. 165; reen. 1899, p. 33, sec. 152; reen. R.C. & C.L., sec. 5049; C.S., sec. 7297; I.C.A., sec. 33-1724]

34-2025. APPEAL AND SUPERSEDEAS. (a) The party against whom judgment is rendered in cases tried in the district court may appeal to the Supreme Court, and if the appellant be in possession of the office, such appeal shall not supersede the execution of the judgment of the court, as provided in the preceding section, unless he give a bond with security, to be approved by the court, in a sum to be fixed by the court, and which shall be at least double the probable compensation of such officer for six (6) months, which bond shall be conditioned that he will prosecute his appeal without delay, and that if the judgment appealed from be affirmed he will pay over to the successful party all compensation received by him while in possession of said office after the judgment appealed from was rendered, and such bond shall contain the express consent that judgment may be rendered against the sureties on the appeal as provided in the following section.

(b) All appeals to the Supreme Court shall be brought within ten (10) days of the judgment by the district court.

History: [1890-1891, p. 57, sec. 166; reen. 1899, p. 33, sec. 153; reen. R.C. & C.L., sec. 5050; C.S., sec. 7298; I.C.A., sec. 33-1725; am.1982, ch. 209]

34-2026. JUDGMENT OF AFFIRMANCE. If upon the appeal the judgment be affirmed, the appellate court shall render judgment against the appellant and the sureties on his bond, or either of them, for the amount which the appellee is entitled to recover from the appellant on account of such contest, together with the costs; but in such case the sureties, or either of them, shall be entitled to produce and examine witnesses concerning the amount of such recovery.

History: [1890-1891, p. 57, sec. 167; reen. 1899, p. 33, sec. 154; reen. R.C. & C.L., sec. 5051; C.S., sec. 7299; I.C.A., sec. 33-1726]

34-2027. COST OF BOND ON APPEAL. If upon appeal the appellant shall not be in possession of the office, he shall give bond, with security to be approved by the court where the judgment is rendered, conditioned to pay all costs that may be adjudged against him upon such appeal.

History: [1890-1891, p. 57, sec. 168; reen. 1899, p. 33, sec. 155; reen. R.C. & C.L., sec. 5052; C.S., sec. 7300; I.C.A., sec. 33-1727]

34-2028. CONTEST OF NOMINATION AT PRIMARIES. A candidate at a primary election may contest the nomination of any candidate for the same office based upon the grounds as set out in this chapter.

History: [S.L. 1982, ch. 209]

34-2029. JURISDICTION OVER PRIMARY CONTEST. The district court in the respective county in which the alleged error or omission occurred shall be the court in which jurisdiction shall rest.

History: [S.L. 1982, ch. 209]

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34-2030. FILING OF AFFIDAVIT. A candidate wishing to contest a primary election shall file an affidavit with the appropriate court within five (5) days of the completion of the canvass of the election. The affidavit shall set forth information as required in section 34-2008, *Idaho Code*. The affidavit shall be served on all necessary parties in the same manner as a complaint and summons are served pursuant to the Idaho Rules of Civil Procedure.

History: [S.L. 1982, ch. 209]

34-2031. SECURITY FOR COSTS. Upon filing of the affidavit the contestant shall file with the court a bond, in the amount of five hundred dollars (\$500), to be used to pay costs of the contestee in the event the primary election be confirmed or the prosecution fail.

History: [S.L. 1982, ch. 209]

34-2032. FRAUD OR ERROR BY THE ELECTION OFFICIAL. If the primary election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the election returns, the contest costs shall be a charge against the county or city where the election was held.

History: [S.L. 1982, ch. 209]

34-2033. DISCOVERY. The court may order the production of such evidence as it deems necessary for the proper disposition of the primary contest pursuant to the Idaho Rules of Civil Procedure. The election contest shall be given priority on the court's calendar.

History: [S.L. 1982, ch. 209]

34-2034. REMEDIES. The court shall render an opinion in a primary contest as soon as is reasonably possible and shall prescribe such remedies as provided in this chapter as it deems just.

History: [S.L. 1982, ch. 209]

34-2035. APPEALS. (a) In primary election contests, the party against whom judgment is rendered on cases filed in the district court may appeal to the Supreme Court. The appeal shall be taken within ten (10) days of the judgment by the district court.

(b) The Supreme Court shall give the primary contest appeal priority on its calendar.

History: [S.L. 1982, ch. 209]

34-2036. COST ON APPEAL. The appellant shall file a bond sufficient to cover the cost of appeal of a primary contest. Costs shall be awarded to the prevailing party on appeal. The amount of the bond on appeal shall be set by the court.

History: [S.L. 1982, ch. 209]

Chapter 21: Election Contests Act

34-2101. SHORT TITLE—INTENT. (1) This chapter shall be known and may be cited as the “**Election Contests Act.**”

(2) The purpose of this act is to simplify and clarify the laws governing election contests of legislative seats and election contests for all officers of the executive department.

History: [S.L. 2017, ch. 293]

34-2102. DEFINITIONS. For the purposes of this chapter, the following terms have the following meanings:

- (1) “**Body**” means the Idaho senate or the Idaho house of representatives or both.
- (2) “**Contestee**” means the individual against whom the contest of election is filed.
- (3) “**Contestor**” means the individual who files the contest of election.
- (4) “**Elector**” has the same meaning as “**qualified elector**” provided in section 34-104, *Idaho Code*.
- (5) “**Eligible for the office**” means the qualifications of members provided in section 34-614, *Idaho Code*.
- (6) “**Individual**” means a natural person and not an artificial person such as a corporation, partnership, or other entity created by law.
- (7) “**Legislature**” means the Idaho senate or the Idaho house of representatives or both.
- (8) “**Office**” means any senate member, house of representatives member, executive office holder, or all.
- (9) “**Parties**” means the contestor and the contestee.
- (10) “**Party**” means the contestor or the contestee.

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(11) “**Presiding officer**” means the Idaho senate president pro tempore or the speaker of the Idaho house of representatives. In the event the contestee or the contestor is the presiding officer, then the next ranking member of majority leadership who is able and willing serves as presiding officer. In the event the contestee or the contestor is an office holder in the executive department, then both the Idaho senate president pro tempore and the speaker of the Idaho house of representatives will serve as presiding officers.

History: [S.L. 2017, ch. 293]

34-2103. JURISDICTION—CONTESTS OVER LEGISLATIVE OFFICES—CONTESTS OVER EXECUTIVE OFFICES.

(1) Contests over legislative offices.

(a) The senate will hear and determine contests of the election of its members.

(b) The house of representatives will hear and determine contests of the election of its members.

(2) Contests over executive offices. The legislature, in joint meeting, will hear and determine cases of contested election for all officers of the executive department. The meeting of the two (2) bodies to decide upon those elections will be held in the house of representatives, and the speaker of the house of representatives will preside.

History: [S.L. 2017, ch. 293]

34-2104. GROUNDS OF CONTEST. The election of any person to any legislative or state executive office may be contested:

(1) For misconduct, fraud or corruption as provided in section 34-2107, *Idaho Code*, on the part of one (1) or more judges of election in any precinct or township, or on the part of one (1) or more members of any board of canvassers sufficient to change the result;

(2) When, in an election contest regarding a legislative seat, the contestee was not eligible for the office at the time of the election as provided in section 34-614, *Idaho Code*;

(3) When, in an election contest regarding an executive office, the contestee was not eligible for the office at the time of the election as provided in chapter 6 of this title;

(4) When the contestee has been convicted of one (1) or more felonies, unless at the time of the election his civil rights have been restored;

(5) When the contestee has been charged with giving or offering to any elector, clerk, or canvasser of the election, or to any judge as provided in section 34-2107, *Idaho Code*, any bribe or reward in money or property, for the purpose of procuring his election;

(6) When the contestee has been charged with violating one (1) or more of the provisions found in sections 18-2301 through 18-2313, *Idaho Code*;

(7) When illegal votes have been received or legal votes rejected at the polls sufficient to change the result;

(8) For any error in any board of canvassers in counting votes or in declaring the result of the election, if the error would change the result;

(9) When the contestee holds the office of the state treasurer or the state controller as provided in section 1, article IV, of the constitution of the state of Idaho, and is in default as a collector and custodian of public money or property;

(10) For any other cause or allegation which, if sustained, would show that a person other than the contestee was the person duly elected to the office in question.

History: [S.L. 2017, ch. 293]

34-2105. LEGISLATIVE RULES. In addition to the provisions of this chapter, the legislature may provide:

(1) Senate rules regarding senate election contests.

(2) House of representatives rules regarding house of representatives election contests.

(3) Joint rules regarding executive department election contests.

In the event the provisions of this chapter are inconsistent with legislative rules, the legislative rules control.

History: [S.L. 2017, ch. 293]

34-2106. CONTEST FOR LEGISLATIVE OFFICES—EXCEPTION REGARDING PRESIDING OFFICERS.

Notwithstanding the provisions of sections 34-2101 through 34-2119, *Idaho Code*, in the event a presiding officer occupies the legislative seat that is the subject of an election contest, the majority leader or the next available and willing member of majority leadership of the appropriate body must serve as the presiding officer for the purposes of this chapter.

History: [S.L. 2017, ch. 293]

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34-2107. MISCONDUCT OF ELECTION JUDGES—WHEN SUFFICIENT TO SET ASIDE AN ELECTION. Misconduct on the part of the judges of election is sufficient to set aside the election if the misconduct would change the result regarding that office.

History: [S.L. 2017, ch. 293]

34-2108. NOTICE OF CONTEST—LEGISLATIVE—EXECUTIVE DEPARTMENT—GROUNDS—SERVICE—ANTICIPATED DISCOVERY. (1) Legislative contest. Within twenty (20) days after the election, whenever any elector of a legislative district chooses to contest the election of any member of the legislature from that district, the elector must give written notice of the contest and leave a copy of the notice of contest with the office of the secretary of state. The elector must make reasonable efforts to provide written notice of the contest to:

(a) The person whose election the elector is contesting by serving the notice at the address of the person reflected on his declaration of candidacy filed with the office of the secretary of state; and

(b) The secretary of the senate, if the election contest concerns an Idaho senate seat, or the chief clerk of the house of representatives, if the election contest concerns an Idaho house of representatives seat, at the statehouse in Boise.

(2) Executive department contest. Within twenty (20) days after the election, whenever any elector of this state chooses to contest the validity of the election of any of the officers of the executive department of the state, the elector must give written notice of the contest and leave a copy of the notice of contest with the office of the secretary of state. The elector must make reasonable efforts to provide written notice of the contest to:

(a) The person whose election the elector is contesting by serving the notice at the address that appears on the person's declaration of candidacy filed with the office of the secretary of state;

(b) The chief clerk of the house of representatives and the secretary of the senate at the statehouse in Boise.

(3) Notification by secretary of state to legislature. On or before the first day of the legislature's organizational session, the secretary of state must provide a copy of the notice of election contest to:

(a) The secretary of senate, if the election contest concerns an Idaho senate seat;

(b) The chief clerk of the house of representatives, if the election contest concerns an Idaho house of representatives seat;

(c) The secretary of the senate and the chief clerk of the house of representatives, if the election contest concerns an officer of the executive department.

(4) Grounds for contest. For any contest of election provided for in subsection (1) or (2) of this section, the notice of contest of election must include one (1) or more grounds upon which the election will be contested, as provided in section 34-2104, *Idaho Code*.

(5) Anticipated discovery. In the notice of contest, the parties must identify anticipated initial discovery, including witnesses to be deposed and the anticipated date and location of depositions. Relevant additional discovery will be allowed by the parties.

(6) Notice of contest may not be amended. A notice of contest required by this section may not be amended subsequent to the expiration of the twenty (20) days' notice required in subsections (1) and (2) of this section.

History: [S.L. 2017, ch. 293]

34-2109. SUMMARY DISMISSAL. (1) If the notice of contest fails to recite any grounds required by section 34-2104, *Idaho Code*, or fails to identify anticipated discovery as provided in section 34-2108, *Idaho Code*, or the contestor fails to timely post bond as provided in section 34-2118, *Idaho Code*, or the contestor otherwise fails to comply with the provisions of this chapter in a material way, the notice of contest may be stayed or dismissed as provided in subsections (3) and (4) of this section.

(2) Failure to advance contest. If the contestor fails to advance the contest due to death, incapacity, failure to comply with orders of the presiding officer, relocation out of the contested legislative district, or failure to advance the contest, then the presiding officer may enter a written order staying the proceedings. The provisions of subsections (3) and (4) of this section will then apply.

(3) Stay of proceedings. The presiding officer may enter a written order staying the proceedings if any of the instances provided in subsection (1) or (2) of this section apply. Upon issuance of the order, discovery in the contest must cease. The order must state the basis for the stay.

(4) Ratification or rejection. On or after the second day of the next regular session of the legislature, the body must either accept or reject the presiding officer's stay.

(a) A vote by the body to accept the order constitutes a dismissal of the contest.

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(b) A vote by the body to reject the order constitutes a reversal of the order. Following the rejection of the order, the presiding officer or his designee must issue an order to the parties providing a schedule for reasonable discovery and hearing. The order must provide reasonable time for the parties to develop their record, not to exceed twenty (20) days. The order must define how and when the record must be completed and delivered to the office of the secretary of state and when the secretary of state will deliver the contest papers to the appropriate body.

History: [S.L. 2017, ch. 293]

34-2110. EXAMINATION OF WITNESSES—SUBPOENAS. Unless otherwise provided for in legislative rule, the following provisions apply:

(1) Examination of witnesses. Unless otherwise ordered by the presiding officer or his designee, any party may take the testimony of any person by deposition upon oral examination pursuant to the provisions of the Idaho rules of civil procedure. Depositions must be transcribed in writing. Any other form of deposition must be approved by the presiding officer or his designee. All testimony and discovery must be completed on or before December 29 following the election. The completed record must be delivered to the office of the secretary of state no later than the close of business on the next business day following December 29.

(2)(a) Subpoenas and subpoenas duces tecum. An election contest held pursuant to the provisions of this chapter is not a judicial proceeding. The principles of rule 45 of the Idaho rules of civil procedure, however, must be used as a framework for the form, content, issuance and service of subpoenas. Every subpoena and subpoena duces tecum must reasonably approximate the form found in appendix B of the Idaho rules of civil procedure.

(b) Unless prevented by sickness or unavoidable necessity, any person who has been summoned in the manner provided for in this section and refuses or neglects to attend and testify:

(i) Forfeits the sum of twenty dollars (\$20.00), to be recovered by the party at whose instance the subpoena was issued; and

(ii) Is guilty of a misdemeanor.

(c) Every witness who provides testimony pursuant to a subpoena provided for in this chapter is entitled to receive the witness fees as allowed under the Idaho rules of civil procedure.

History: [S.L. 2017, ch. 293]

34-2111. TESTIMONY—HOW TAKEN, CERTIFIED AND PRESERVED. The testimony by deposition upon oral examination must be taken and preserved pursuant to the provisions of the Idaho rules of civil procedure. The deposition record must be entitled: “**Deposition taken in the matter of the contest of the election of [INSERT NAME OF THE CONTESTEE HERE] to the office of _____,**” and be directed to the secretary of state, who must preserve the same, until the meeting of the legislature. Any testimony taken pursuant to this section must be filed with the secretary of state. Upon request of a presiding officer, the secretary of state must provide copies of depositions to the requesting presiding officer in a timely manner, prior to the time established in section 34-2114, *Idaho Code*.

History: [S.L. 2017, ch. 293]

34-2112. PRODUCTION OF PAPERS—REFUSAL OR NEGLECT TO PRODUCE A MISDEMEANOR. The presiding officer has power to require the production of papers. Any person who refuses or neglects to produce and deliver any paper or papers in his possession pertaining to the election or, in case they be official papers, refuses or neglects to produce and deliver certified or sworn copies of the same shall be guilty of a misdemeanor.

History: [S.L. 2017, ch. 293]

34-2113. EXAMINATION OF POLL BOOKS AND BALLOTS. (1) Except as provided in subsection (2) of this section, if, at the time of taking depositions to be used in a contested election, the notice of contest alleges that it is necessary for the determination of the contest that the ballots or the poll books of any election district or districts should be inspected, then, on the request of either party to the contest, the presiding officer may issue an order requiring the county auditor, or other person in whose custody or possession the ballots or poll books may be, naming the district or districts mentioned in the notice, to deliver them to the person or persons issuing the order. The officer or officers must transmit the ballots or poll books to the secretary of state, who must preserve the same unopened until the meeting of the legislature.

(2) Any order issued pursuant to subsection (1) of this section must not be executed until after the time has lapsed for the filing of:

(a) An election contest provided for in chapter 20 of this title; or

(b) A recount filed as provided for in chapter 23 of this title.

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- (c) (i) If more than one (1) election contest is filed pursuant to chapter 20 or 21 of this title that implicate the same ballots or poll books, or part of the same ballots or poll books, the office of the secretary of state and the appropriate county auditor, or other person in whose custody or possession the ballots or poll books may be, must agree to a process for the examination of ballots or poll books that reasonably accommodates each contest filed.
- (ii) If one (1) or more election contests are filed pursuant to chapter 20 or 21 of this title and one (1) or more recounts of ballots are filed pursuant to chapter 23 of this title, and if the election contests and the recounts of ballots implicate the same ballots or poll books, or part of the same ballots or poll books, the office of the secretary of state, the office of the attorney general and the appropriate county auditor or other person in whose custody or possession the ballots or poll books may be must agree to a process for the examination of ballots or poll books that reasonably accommodates each contest filed and each recount of ballots filed.

History: [S.L. 2017, ch. 293]

34-2114. CONTEST PAPERS DELIVERED TO PRESIDING OFFICERS. (1) Senate election contests. On the second day of the next regular session of the legislature, the secretary of state must deliver to the presiding officer of the senate all papers regarding a contested election of any member of the senate.

(2) House of representatives election contests. On the second day of the next regular session of the legislature, the secretary of state must deliver to the presiding officer of the house of representatives all papers regarding a contested election of any member of the house of representatives.

(3) Executive department election contests. On the second day of the next regular session of the legislature, the secretary of state must deliver to the speaker of the house of representatives all papers regarding a contest of elections of executive officers. The senate president pro tempore, or his designee, must attend the house of representatives during its receipt of the contest papers.

History: [S.L. 2017, ch. 293]

34-2115. NOTICE OF RECEIVING PAPERS. (1) Senate election contest. On the day of the receipt by the presiding officer of the senate, or his designee, of papers relating to contested elections, the presiding officer, in the appropriate order of business, must give notice to the senate of receipt of the papers.

(2) House of representatives election contest. On the day of the receipt by the presiding officer of the house of representatives, or his designee, of papers relating to contested elections, the presiding officer, in the appropriate order of business, must give notice to the house of representatives of receipt of the papers.

(3) State Executive Department Election Contest. Where the papers relate to the contest of a state executive officer, the house of representatives must notify the senate, and the day must be fixed by both houses, by concurrent resolution, for uniting the two (2) bodies to decide upon the same, in which decision the yeas and nays must be taken and entered upon the journal. A joint committee may be appointed by the presiding officers, or designees, of the two (2) bodies to produce a committee report on the election contest.

History: [S.L. 2017, ch. 293]

34-2116. OPENING AND CUSTODY OF PAPERS—APPOINTMENT OF COMMITTEE. (1) Unless otherwise provided by legislative rule, the papers relating to any contest of election must be opened only in the presence of the body as directed by the presiding officer. Except as provided in subsection (2) of this section or unless otherwise provided for by legislative rule, the papers must remain in the custody of the presiding officer or his designee until the election contest is decided. Upon a final decision by the body, the provisions of section 34-2117, *Idaho Code*, governing preservation of evidence will apply.

(2) Appointment of committee. The presiding officer may appoint a standing or special committee to hear the contest of election.

(a) The chairman of the committee will act as the temporary custodian of the papers. The presiding officer, or his designee, has discretion to deliver to the committee chairman all papers delivered to the presiding officer by the secretary of state or a portion of those papers. The committee chairman, or his designee, is authorized to efficiently manage or organize the papers.

(b) Upon conclusion of hearing the contest, the committee will report to the body its recommendation on the contest. The body must vote on the committee report. Upon the body's vote on the report, the committee chairman must return the papers to the presiding officer, who will preserve the evidence as provided in section 34-2117, *Idaho Code*.

History: [S.L. 2017, ch. 293]

34-2117. PRESERVATION OF EVIDENCE. (1) Except as provided for in subsection (2) of this section, all the evidence in any contest provided for in this chapter will be returned by the presiding officer, or his designee, to the secretary of state and will be preserved in the office of the secretary of state.

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(2) Any ballots or poll books, other than copies, will be returned by the presiding officer to the secretary of state, who will return them to the office of the county auditor in which they were first required to be filed.

History: [S.L. 2017, ch. 293]

34-2118. SECURITY FOR COSTS—ASSESSMENT OF COSTS AND FEES—ASSESSMENT OF ATTORNEY'S FEES.

(1) The contestor must file with the secretary of state a bond in the amount of one thousand dollars (\$1,000) conditioned to pay the contestee's costs if the election be confirmed by the legislature.

(2) The parties are liable for witness fees and the costs of discovery made by them respectively. If the election is upheld by the legislature, the legislature may assess costs and fees, other than attorney's fees, against the contestor. If the election is annulled by the legislature, the legislature may assess costs and fees, other than attorney's fees, against the contestee.

(3) Attorney's fees.

(a) Attorney's fees may be awarded against the contestor if the legislature determines the contest of election is frivolous and has no foundation in law or fact.

(b) Attorney's fees may be awarded against the contestee if the election is annulled by the legislature due to misconduct, fraud or corruption on the part of the contestee.

(4) If the election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the returns, the contest costs will be a charge against the county in which the fraud or error occurred.

(5) If a special election is called by the legislature pursuant to section [34-2119](#), *Idaho Code*, the costs associated with the special election will be allocated in equal amounts to the state of Idaho and the county or counties where the special election is held.

History: [S.L. 2017, ch. 293]

34-2119. FORMS OF RELIEF. (1) The legislature must confirm or annul the election and must declare as elected the person who appears duly elected.

(2) If two (2) or more persons have the highest and an equal number of votes for the same office, or if the legal ballots cast or intended to be cast for them had been counted and they would have had the highest and an equal number of votes for the same office, then the election will be decided by lot, in a manner directed by the legislature, which of the persons receiving such votes will be declared duly elected.

(3) When the person whose election is contested is found to have received the highest number of legal votes, but the election is declared null by reason of legal disqualification on his part, or for other causes, the person receiving the next highest number of votes will not be declared elected and the legislature must declare the election void.

(4) If a vacancy is created pursuant to this section, the legislature may declare the office vacant and order the office filled pursuant to [chapter 9, title 59](#), *Idaho Code*.

(5) Notwithstanding the provisions of [chapter 1](#) of this title, the legislature may call for a special election regarding a specific contested office in which an accurate vote count cannot be obtained or discovered by the legislature. The legislature has the authority to set the date of the special election and the office and candidates to be placed on the ballot. In setting a special election, the legislature may provide for a filing period and notice provisions for the election.

(6)(a) Upon a final decision and award of costs and fees against the contestor, the legislature may direct the secretary of state to pay the award from the bond provided in section [34-2118](#), *Idaho Code*.

(b) Upon a final decision and award of costs, fees or attorney's fees against the contestor, and if the costs, fees and attorney's fees exceed the amount of the bond filed pursuant to section [34-2118](#), *Idaho Code*, the contestee may petition the district court for execution of the award.

(c) Upon a final decision and award of costs and fees against the contestee, the contestor may petition the district court for execution of the award.

History: [S.L. 2017, ch. 293]

34-2120. CONTEST OF NOMINATION AT PRIMARIES. Any candidate at a primary election may contest the nomination of any candidate for the same office based on the grounds as set out in this chapter.

History: [S.L. 2017, ch. 293]

34-2121. JURISDICTION OVER PRIMARY CONTESTS. A district court in the respective legislative district has jurisdiction over the primary contest involving a legislative election. For election contests involving statewide executive offices, the district court whose jurisdiction includes the state capitol has jurisdiction.

History: [S.L. 2017, ch. 293]

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34-2122. FILING OF AFFIDAVIT. A Candidate wishing to contest a primary election must file an affidavit with the appropriate court within five (5) days of the completion of the canvass of the election. The affidavit must set forth information as required in section 34-2108, *Idaho Code*, and must be served on all necessary parties in the same manner as a complaint and summons are served pursuant to the Idaho rules of civil procedure.

History: [S.L. 2017, ch. 293]

34-2123. SECURITY FOR COSTS. Upon filing of the affidavit, the contestor must file with the court a bond in the amount of one thousand dollars (\$1,000) to be used to pay costs of the contestee in the event the primary election be confirmed or the prosecution fail.

History: [S.L. 2017, ch. 293]

34-2124. FRAUD OR ERROR BY THE ELECTION OFFICIAL. If the primary election is set aside or annulled on the grounds of fraud or error by the election officials in conducting the election or in canvassing the election returns, the court costs must be a charge against the state of Idaho.

History: [S.L. 2017, ch. 293]

34-2125. DISCOVERY. The court may order the production of such evidence as it deems necessary for the proper disposition of the primary contest pursuant to the Idaho rules of civil procedure. The election contest must be given priority on the court's calendar.

History: [S.L. 2017, ch. 293]

34-2126. REMEDIES. Not more than ten (10) days after the hearing, the court must render an opinion in a primary contest as soon as practicable and must prescribe such remedies provided in this chapter as it deems just. The court may award attorney's fees if the court finds the contest of nomination is frivolous and has no foundation in law or fact.

History: [S.L. 2017, ch. 293]

34-2127. APPEALS. (1) In primary election contests, the party against whom judgment is rendered on cases filed in the district court may appeal to the supreme court. The appeal must be taken within ten (10) days of the judgment of the district court.

(2) The supreme court must give the primary contest appeal priority and in no case may it render a decision more than ten (10) days after the receipt of an appeal.

(3) The supreme court may award attorney's fees if it finds the appeal is frivolous and has no foundation in law or fact.

History: [S.L. 2017, ch. 293]

34-2128. COST ON APPEAL. The appellant must file a bond sufficient to cover the cost of appeal of a primary contest. The amount of the bond on appeal must be set by the court.

History: [S.L. 2017, ch. 293]

Chapter 22: Constitutional Convention Act

34-2201. ELECTION OF DELEGATES. Whenever the Congress of the United States has proposed, or shall hereafter propose, an amendment to the Constitution of the United States, and proposes that it be ratified by conventions in the several states, the governor shall fix by proclamation the date of an election, subject to the provisions of section 34-106, *Idaho Code*, for the purpose of electing delegates to such convention in the state of Idaho. The proclamation for such election shall be issued by the governor under his hand and the great seal of the state of Idaho at least ninety (90) days before such election and copies thereof shall be transmitted to the board of county commissioners of the counties in which such elections are to be held. Such election shall be held at least as soon as the next general election occurring more than three (3) months after the amendment has been proposed by the Congress of the United States.

History: [S.L. 1933, ch. 179; am.1995, ch. 118]

34-2202. QUALIFICATIONS OF VOTERS. At such election all persons qualified to vote for presidential electors shall be entitled to vote.

History: [1933, ch. 179, section 2, p. 328]

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knowledge each is a qualified elector of the State of Idaho.

(Signed) _____

Subscribed and sworn to before me this _____ day
of _____, _____.

Notary Public for the State of Idaho;
residence _____

No voter shall sign more than twenty-one (21) nominating petitions nor more than one (1) petition for the same candidate, and if he does either, his signatures shall not be counted on any nominating petition.

All acceptances and petitions shall be filed with the secretary of state not less than forty-five (45) days before the date fixed for the election. No nomination shall be effective except those of the twenty-one (21) candidates in favor of ratification and the twenty-one (21) candidates against ratification whose nominating petitions have respectively been signed by the largest number of voters, ties, if any, to be decided by lot drawn by the secretary of state; provided, however, that if there be less than twenty-one (21) candidates in favor of ratification, all such candidates shall be considered as nominated, or if there be less than twenty-one (21) candidates against ratification all such candidates shall be considered as nominated.

Within ten (10) days after the petitions are filed with him, the secretary of state shall certify to each county auditor within the state, a certified list of the candidates of each group entitled to be voted for at such election, as appears from the acceptances and nominating petitions filed in the office of the secretary of state.

History: [1933, ch. 179, section 5, p. 328; am.2007, ch. 90]

34-2206. BALLOTS. The election shall be by ballot, separate from any ballot to be used at the same election, which ballot shall be prepared as follows: It shall first state the substance of the proposed constitutional amendment. This shall be followed by appropriate instructions to the voter. It shall then contain perpendicular columns of equal width headed respectively, in plain type, “**For Ratification**” and “**Against Ratification.**” In the column headed “**For Ratification**” shall be placed the names of the candidates nominated in favor of ratification. In the column headed “**Against Ratification**” shall be placed the names of the candidates nominated as against ratification. The voter shall indicate his choice by making one or more cross-marks in the appropriate spaces provided on the ballot. No ballot shall be held void because any such cross-mark is irregular in character. The ballot shall be so arranged that the voter may, by making a single cross-mark, vote for the entire group of candidates whose names are comprised in any column:

The ballot shall be in substantially the following form:

**PROPOSED AMENDMENT TO THE
CONSTITUTION OF THE UNITED STATES**

Delegates to the Convention to Ratify the Proposed Amendment.

The Congress has proposed an amendment to the Constitution of the United States which provides (insert here the substance of the proposed amendment).

The Congress has also proposed that the said amendment shall be ratified by conventions in the several states.

INSTRUCTIONS TO VOTERS

Do not vote for more than 21 candidates altogether.

To vote for all candidates in favor of ratification, or for all candidates against ratification, make a cross-mark in the CIRCLE at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate make a cross-mark in the SQUARE at the left of the name.

For Ratification	Against Ratification
○	○
<input type="checkbox"/> John Doe	<input type="checkbox"/> Charles Coe
<input type="checkbox"/> Richard Roe	<input type="checkbox"/> Michael Moe

All circular spaces in said ballot shall be one-half (1/2) inch in diameter.

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All square spaces in said ballot shall be one-half (1/2) inch square.

Except as herein otherwise provided, ballots and supplies for said election shall be prepared and furnished as provided by chapter 9 of this title.

History: [1933, ch. 179, section 6, p. 328]

34-2207. RESULT OF ELECTION—VACANCIES, HOW FILLED. The twenty-one (21) candidates who shall receive respectively the highest numbers of the total number of votes cast at said election shall be the delegates to the convention. If there shall be a vacancy in the convention caused by the death or disability of any delegate or any other cause, the same shall be filled by appointment by the majority vote of the delegates comprising the group from which such delegate was elected and if the convention contains no other delegate of that group, shall be filled by the governor.

History: [1933, ch. 179, section 7, p. 328]

34-2208. MEETING AND ORGANIZATION OF DELEGATES. The delegates to the convention shall meet and assemble in the house of representatives in the capitol at Boise, Idaho, on the twenty-eighth day after their election, at twelve (12) o'clock noon, and shall thereupon organize as, be and constitute a convention to pass upon the question of whether or not the proposed amendment shall be ratified.

History: [1933, ch. 179, section 8 p. 328]

34-2209. ORGANIZATIONAL POWERS OF CONVENTION. The convention shall be the judge of the election and qualification of its members; and shall have the power to elect its president, secretary and other officers and/or employees and to adopt its own rules.

History: [1933, ch. 179, section 9, p. 328]

34-2210. JOURNAL OF PROCEEDINGS. The convention shall keep a journal of its proceedings in which shall be recorded the vote of each delegate on the question of ratification of the proposed amendment. Upon final adjournment the journal shall be certified to by the president and secretary of the convention and be filed with the secretary of state.

History: [1933, ch. 179, section 10, p. 328]

34-2211. CERTIFICATE OF RATIFICATION. If the convention shall agree, by a vote of a majority of the total number of delegates, to the ratification of the proposed amendment, a certificate to that effect shall be executed by the president and secretary of the convention and transmitted to the secretary of state of this state, who shall transmit the certificate under the great seal of the state to the secretary of state of the United States.

History: [1933, ch. 179, section 11, p. 328]

34-2212. NO COMPENSATION—EXPENSES, HOW ALLOWED. No delegate to a constitutional convention shall receive any compensation except that such delegate shall be paid his actual, necessary and reasonable expenses in traveling to and from and attendance at said convention.

History: [1933, ch. 179, section 12, p. 328]

34-2213. EXPENSES, HOW PAID. All the expenses of the constitutional convention and the expenses allowed delegates thereto shall be allowed and paid by the state of Idaho in the same manner as other claims against the state are allowed and paid, and from such appropriations as are, or may be, available therefor.

History: [1933, ch. 179, section 13, p. 328]

34-2214. FEDERAL STATUTE TO CONTROL. If at or about the time of submitting any such amendment, Congress shall either in the resolution submitting the same or by statute, prescribe the manner in which the conventions shall be constituted, and shall not except from the provisions of such statute or resolution such states as may theretofore have provided for constituting such conventions, the preceding provisions of this act shall be inoperative, the convention shall be constituted and shall operate as the said resolution or Act of Congress shall direct, and all officers of the state who may by the said resolution or statute be authorized or directed to take any action to constitute such a convention for this state are hereby authorized and directed to act thereunder and in obedience thereto with the same force and effect as if acting under a statute of this state.

History: [1933, ch. 179, section 14, p. 328]

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34-2215. SEPARABILITY. If any part or parts of sections 34-2201–34-2216 shall be adjudged by the courts to be unconstitutional or invalid, the same shall not effect the validity of any part or parts thereof which can be given effect without the part or parts adjudged to be unconstitutional or invalid. The legislature hereby declares that it would have passed the remaining parts of sections 34-2201–34-2216 if it had been known that such other part or parts thereof would be declared to be unconstitutional or invalid.

History: [1933, ch. 179, section 15, p. 328]

34-2216. SHORT TITLE. This act, sections 34-2201–34-2216, may be cited as the “**Constitutional Convention Act.**”

History: [1933, ch. 179, section 16, p. 328]

34-2217. [REPEALED: AM. 1995, ch. 227]

Chapter 23: Recount of Ballots

34-2301. APPLICATION FOR RECOUNT OF BALLOTS. (1) Any candidate for federal, state, county or municipal office desiring a recount of the ballots cast in any nominating or general election or person supporting or opposing a state, county or city measure, may apply to the attorney general therefor, within twenty (20) days of the canvass of such election, by the state board of canvassers if for federal and state office, or within twenty (20) days of the canvass of such election by the county commissioners if for a county or municipal office.

(2) Candidates for all other offices and supporters and opponents to all other ballot measures desiring a recount may apply to the county clerk within twenty (20) days of the canvass of said election by the board of county commissioners.

History: [S.L. 1957, ch. 198; am.1985, ch. 41; am.2009, ch. 341; am.2011, ch. 285]

34-2302. PRECINCTS SPECIFIED FOR RECOUNT—REMITTANCE. In his application he shall state the precinct or precincts in which he desires recount to be made and shall remit to the attorney general or county clerk, pursuant to section 34-2301, *Idaho Code*, together with his application the sum of one hundred dollars (\$100) for each such precinct in which he desires a recount made.

History: [S.L. 1957, ch. 198; am.2011, ch. 285]

34-2303. BALLOTS ORDERED IMPOUNDED BY ATTORNEY GENERAL. Upon receiving the application for recount together with the remittance required by section 34-2302, *Idaho Code*, the attorney general or county clerk, pursuant to section 34-2301, *Idaho Code*, shall cause all ballot boxes used in such election in the precinct or precincts in which recount is to be made to be immediately impounded and taken into custody by the sheriff of the county or counties in which precinct or precincts are located. In the event that the recount is of the results of a primary election the ballot boxes used to hold the blank half of the ballot shall also be impounded.

History: [S.L. 1957, ch. 198; am.2011, ch. 285]

34-2304. ORDER FOR RECOUNT—PROCEDURE—NOTICE. The attorney general or county clerk shall then issue an order for recount. The order shall name the prior election judges and clerks of the precinct to act in the same capacity and receive the same compensation as they did on election day. The order shall provide for the place where the recount is to be made; that all candidates named on the ballot for the office contested, or a representative of either or all of them, may be present to watch the counting; and that every other person interested may be present. The order shall state the date on which the recount is to be made which shall not be more than ten (10) days from the date of the order. Copies of the order shall be mailed to each candidate named on the ballot for the office to be recounted.

History: [S.L. 1957, ch. 198; am.1985, ch. 41; am.2011, ch. 285]

34-2305. MANNER OF RECOUNTING. At the time and place fixed for recounting the ballots cast in any precinct all ballots shall be recounted in plain view of the candidates or their representatives. The recount shall commence at the time and place so ordered, and shall continue until the recount is finished and the results tabulated. The attorney general shall be the final authority concerning any question which arises during the recount for federal, state, county or municipal elections. The county prosecuting attorney shall be the final authority concerning any question that arises during the recount of other elections.

History: [S.L. 1957, ch. 198; am.1985, ch. 41; am.2011, ch. 285; am.2012, ch. 211]

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34-2306. DIFFERENCE REVEALED BY RECOUNT—CANDIDATE RELIEVED OF COSTS. If the results of the recount indicate a difference, which if projected across all the precincts of the office in question would change the result of the election in favor of the candidate requesting the recount or change in the measure being recounted, then the cost of such recount shall be borne by the county or state and the sums of money theretofore paid for the recount shall be returned to the candidate or person who requested the recount of a ballot measure.

In order to be relieved of the costs of the recount, the candidate or person must request that at least twenty (20) precincts containing not less than five thousand (5,000) votes cast be recounted if for a federal or state office or measure, or five (5) precincts containing not less than one thousand two hundred fifty (1,250) votes cast be recounted for a state legislative district office, or at least two (2) precincts having not less than five hundred (500) votes cast be recounted for a county office or measure, or two (2) precincts having not less than two hundred (200) votes cast to be recounted in city or district elections.

History: [S.L. 1957, ch. 198; am.1985, ch. 41; am.2011, ch. 285]

34-2307. WHEN GENERAL RECOUNT ORDERED. If the candidate or person who requested the recount is relieved of the costs of the recount as described in section [34-2306](#), *Idaho Code*, the attorney general, or the county prosecuting attorney for district offices, shall require a recount to be made in all the remaining precincts of the office in question. The state shall pay for a general recount of a federal, state, or legislative district office, while the county shall pay for a general recount of a county, city or district office.

History: [S.L. 1957, ch. 198; am.1985, ch. 41; am.2011, ch. 285; am.2012, ch. 211]

34-2308. CANDIDATE DISAGREEING WITH RECOUNT RESULTS—APPEAL. (1) Any candidate or person may appeal the results of a recount or the determination that a recount is not necessary when:

- (a) Any candidate for the office or the person on either side of a measure for which a recount has been requested disagrees with the results of the recount and alleges that the law has been misinterpreted or misapplied;
- (b) It appears that a different application or interpretation of the law would have required a general recount where no general recount was ordered; or
- (c) It appears that a different application or interpretation of the law would not have required a general recount where a general recount was ordered; then the candidate claiming the misinterpretation or the misapplication of law may appeal to the district court in the county concerned if the office is a county, municipal or district office or to the district court in Ada county if the office is a federal or state office.

(2) The submittal on appeal shall be by brief and submitted within twenty-four (24) hours following the recount. The appeal submittal shall be served upon the attorney general of Idaho or the county prosecuting attorney within twenty-four (24) hours of filing it within the district court. The appeal submittal shall also be served upon the opposing candidate(s) or representatives of the pro and con sides of the ballot measure within twenty-four (24) hours of filing the appeal in the district court.

(3) The attorney general, in consultation with the secretary of state, may respond to the submittal by brief or the prosecuting attorney, in consultation with the county clerk, may respond for district elections.

(4) The opposing candidate(s) or parties, regarding a measure, may respond to the submittal by brief.

(5) At the discretion of the district court judge, a hearing may be ordered within five (5) days of the filing of the appeal. All parties required to be served with the appeal may participate fully in the hearing. The judge may determine that the appeal may be decided on the brief without a hearing.

(6) A decision thereon shall be given within five (5) days. Any appeal from the decision of the district court must be taken within twenty-four (24) hours after a decision is rendered. A decision on the appeal shall be given within five (5) days. No further appeal shall be allowed.

History: [S.L. 1957, ch. 198; am.1985, ch. 41; am.2004, ch. 48; am.2011, ch. 285]

34-2309. FREE RECOUNT. A losing candidate for nomination, or election or person supporting or opposing a ballot measure, may request a recount of the votes cast for the nomination or election to that office or passage or failure of a measure if the difference between the vote cast for that candidate and for the winning candidate for nomination or election, or the difference between the yes and no votes on a measure, is less than or equal to one-tenth of one percent (0.1%) of the total votes cast for that office or five (5) votes, whichever is greater. All requests shall be in writing, and filed with the appropriate officer during the time mentioned in section [34-2301](#), *Idaho Code*.

The state shall pay for the recount of a federal, state, or legislative district office, or state measure while the county shall pay for the recount of a county, city or district office or measure.

History: [S.L. 1985, ch. 41; am.1986, ch. 97; am.2011, ch. 285; am.2015, ch. 282; am.2015, ch. 287]

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34-2310. “COSTS” DEFINED. As used in this chapter, costs of recount shall include the following:

- (1) Travel costs of the office of the attorney general including meals and lodging.
- (2) Normal hourly rate for election judges and clerks who are not employees of the county.
- (3) Mileage for election judges who are not employees of the county.
- (4) Any other costs directly attributable to the recount.

History: [S.L. 1985, ch. 41]

34-2313. RECOUNT PROCEDURES FOR AUTOMATED TABULATION SYSTEMS. (1) To ensure the accuracy of automated vote tabulation systems, the county clerk shall follow the recount procedures provided in this section.

(2) The votes from a random selection of ballots shall be tallied by hand and the votes from the same ballots shall be tabulated by an electronic ballot tabulating system. For statewide and federal office or a statewide measure, the number of ballots to be tallied and tabulated shall be equal to at least two (2) precincts of the ballots cast in each county. For all other offices or measures, the number of ballots to be tallied and tabulated shall be equal to the greater of one hundred (100) or five percent (5%) of the ballots cast for the office or measure, distributed by county where applicable.

(3) For a statewide or federal office or a statewide measure, if the results of the hand-tally and the automated vote tally system tabulation within the county differ by one-fourth of one percent (.25%) or less, the remaining ballots shall be recounted using automated vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

(4) For other offices and ballot measures, if the results of the hand tally and electronic vote tabulating system tabulation differ by less than one percent (1%), or two (2) votes, whichever is greater, the remaining ballots shall be recounted using automated vote tabulating systems. Otherwise, the remaining ballots shall be recounted by hand.

History: [S.L. 2011, ch. 285]

Chapter 24: Voting by Machine or Vote Tally System

34-2401. DEFINITIONS. As used in this chapter:

(1) “**Ballot**” means any material used or the voting surface of a direct recording electronic system on which votes are cast for offices, candidates and measures.

(2) “**Ballot card**” means the tabulating card or cards of any size upon which the voter records his vote.

(3) “**Ballot label**” means the cards, papers, booklet or other material containing the names of offices and candidates and measures to be voted on.

(4) “**Election**” means all state, county, city, district and other political subdivision elections including bond issue elections.

(5) “**Governing body**” means the board of county commissioners of any county or the governing body of any city, district or other political subdivision elections including bond issue elections.

(6) “**Measure**” means a proposed law, act or part of an act of the legislative assembly or amendment to the constitution of the state of Idaho to be submitted to the people for their approval or rejection at an election. “**Measure**” also means other propositions which can be submitted to the voters at any election by counties, cities, districts or other political subdivisions.

(7) “**Model**” means a mechanically operated model of a portion of the face of the machine illustrating the means of voting.

(8) “**Precinct**” includes all election districts.

(9) “**Voting machine**” means:

(a) Any mechanical or electronic device which will record every vote cast by any voter on candidates and measures and which will either internally or externally total all votes cast on that device;

(b) Any device into which a ballot card may be inserted and which is so designed and constructed that the vote for any candidate or measure may be indicated by punching or marking the ballot card.

(10) “**Vote tally system**” means one (1) or more pieces of machinery or equipment necessary to examine and tally automatically paper ballots having marks placed thereon by a written mark or by a marking stamp. The examination shall be accomplished by either mark sensing or optical scanning.

History: [S.L. 1970, ch. 140; am.1974, ch. 3; am.2001, ch. 272; am.2003, ch. 48]

34-2402. AUTHORITY TO USE. It is the policy of this state that at all elections, including bond issue elections, that ballots or votes may be cast, registered, recorded and counted by means of voting machines or vote tally systems as provided in this chapter.

History: [S.L. 1974, ch. 3]

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34-2403. APPLICABILITY OF OTHER LAWS. All election laws, including, but not limited to, bond election laws, city charters or ordinances, not inconsistent with this chapter, shall apply to all elections in election precincts where voting machines or vote tally systems are used. No provision of law, city charter or ordinance which in any way conflicts with this chapter or with the use of voting machines or vote tally systems as provided in this chapter, shall operate to prohibit use of voting machines or vote tally systems in any election or bond issue election.

History: [S.L. 1974, ch. 3]

34-2404. TAMPERING WITH MACHINES PROHIBITED. (1) No person shall:

(a) Tamper with or injure or attempt to injure any voting machine or vote tally system to be used or being used in an election.

(b) Tamper with any voting machine or vote tally system that has been used in an election.

(c) Prevent or attempt to prevent the correct operation of any voting machine or vote tally system.

(2) An unauthorized person shall not make or have in his possession a key to a voting machine to be used or being used in an election.

(3) Neither the secretary of state nor any officer or employee of any county, city, district or other political subdivision using voting machines or vote tally systems, shall solicit or accept any compensation, other than amounts paid by the governmental unit, in connection with the sale, lease or use of voting machines or vote tally systems.

History: [S.L. 1970, ch. 140]

34-2405. AUTHORITY FOR PROCUREMENT OF MACHINES. (1) After consultation with the county clerk as chief elections officer of his county, the governing body at any regular meeting or a special meeting called for the purpose, may rent, purchase or otherwise procure, and provide for the use of, in all or a portion of the election precincts of the county, any voting machine or vote tally system which the governing body deems to be in the best interest of that county and which machine or system is approved by the secretary of state.

(2) Thereafter the voting machine or vote tally system shall be used for voting and for receiving, registering and counting the votes in all primary and general elections held in such precincts.

(3) In all other elections, the voting machine or vote tally system may be used for voting, receiving, registering and counting the votes at the direction of the county clerk.

History: [S.L. 1970, ch. 140; am.1972, ch. 129]

34-2406. JOINT PURCHASE AND USE OF MACHINES AUTHORIZED. (1) In procuring the necessary voting machines or vote tally systems to be used, a governing body of any county, city, district or other political subdivision in the county, may by agreement entered into by the board of county commissioners and the governing bodies of cities, districts or other political subdivisions, provide for the joint purchase and subsequent ownership of voting machines or vote tally systems and for the care, maintenance and use of the machines or vote tally systems.

(2) The governing body of two (2) or more counties may by agreement provide for the joint use of voting machines or vote tally systems.

History: [S.L. 1970, ch. 140]

34-2407. PURCHASE OF MACHINES—MANNER OF PAYMENT. (1) The governing body may, on the adoption and purchase of voting machines or vote tally systems, provide for their payment in the method it determines to be for the best interest of the county, city, district or other political subdivision. The governing body may make contracts for the purchase of the machines or vote tally systems with such provisions with regard to price, manner of purchase and time of payment that the governing body determines are proper.

(2) For the purpose of paying for voting machines or vote tally systems, the governing body may:

(a) Issue bonds, warrants, notes or other negotiable obligations. The bonds, warrants, certificates, notes or other obligations shall be a charge upon the county, city, district or other political subdivisions.

(b) Pay for the voting machines or vote tally system in cash out of the general fund.

(c) Provide for the payment for the voting machines or vote tally systems by other means.

(3) In estimating the amount of taxes for the general fund, if any, the amount required for payment for voting machines or vote tally systems shall be added, extending over the time required to pay for the machines or vote tally systems.

History: [S.L. 1970, ch. 140]

34-2408. PRIOR APPROVAL REQUIRED FOR ISSUANCE OF BONDS. The governing body of any county shall, prior to authorizing the issuance of bonds obtain the approval in writing of the secretary of state as to the type and number of machines or vote tally systems to be purchased and the price to be paid therefor.

History: [S.L. 1970, ch. 140]

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34-2409. EXAMINATION OF MACHINES BY SECRETARY OF STATE PRIOR TO ADOPTION. (1) The secretary of state shall publicly examine all makes of voting machines or vote tally systems submitted to him and determine whether the machines or vote tally systems comply with the requirements of this chapter, and can safely be used by voters at elections under the provisions of this chapter. Any voting machine or vote tally system shall be certified by the secretary of state for use in Idaho. Except for functions or capabilities unique to this state, voting machines and vote tally systems shall be tested and the results certified by an independent testing authority designated by the secretary of state prior to certification.

(2) Any person owning or interested in a voting machine or vote tally system may submit it to the secretary of state for examination. No examination shall be conducted unless documentation is provided indicating that the voting machine or vote tally system meets the federal election commission standards. For the purpose of assistance in examining the machine or vote tally system the secretary of state may employ not more than three (3) individuals who are expert in one (1) or more of the fields of data processing, mechanical engineering and public administration. The compensation of these assistants shall be paid by the person submitting the machine or vote tally system.

(3) Within thirty (30) days after completing the examination and approval of any voting machine or vote tally system the secretary of state shall make and file in his office his report on the machine or vote tally system, together with a written or printed description and drawings and photographs clearly identifying the machine or vote tally system and the operation thereof. As soon as practicable after such filing, the secretary of state upon request shall send a copy of the report to any governing body within the state.

(4) Any voting machine or vote tally system that receives the approval of the secretary of state may be used for conducting elections in this state. Any machine or vote tally system that does not receive such approval shall not be adopted for or used at any election. After a voting machine or vote tally system has been approved by the secretary of state, any change or improvement in the machine or vote tally system that does not impair its accuracy, efficiency or capacity shall not render necessary a reexamination or reapproval of the machine or vote tally system.

(5) Any voting system, including paper ballots, that was used in the 2004 general election shall be continued to be authorized for use as long as the voting system meets the requirements of the “**Help America Vote Act of 2002**,” Public Law 107-252.

(6) For all elections conducted after 2004, no direct recording electronic voting device shall be used unless the direct recording electronic voting device has a voter verifiable paper audit trail. Any certifications of a direct recording electronic voting device without a voter verifiable paper audit trail are hereby declared null and void.

(7) The secretary of state may periodically review the various voting systems that have been certified for use in the state to ensure such systems meet the standards set forth by the federal election assistance commission and the national institute of standards and technology. Any voting system that does not meet such standards may be decertified after a public hearing.

History: [S.L. 1970, ch. 140; am.2001, ch. 272; am.2005, ch. 282; am.2007, ch. 202; am.2012, ch. 179]

34-2410. SPECIFICATIONS FOR VOTING MACHINES OR VOTE TALLY SYSTEMS. (1) No voting machine or vote tally system shall be approved by the secretary of state unless it is constructed so that it:

- (a) Secures to the voter secrecy in the act of voting.
- (b) Provides facilities for voting for the candidates of as many political parties or organizations as may make nominations and for or against as many measures as may be submitted.
- (c) Permits the voter to vote for any person for any office and upon any measure that he has the right to vote for.
- (d) Permits the voter, except at primary elections, to vote for all the candidates of one (1) party or in part for the candidates of one (1) party and in part for the candidates of one or more other parties.
- (e) Permits the voter to vote for as many persons for an office as he is lawfully entitled to vote for but no more.
- (f) Prevents the voter from voting for the same person more than once for the same office.
- (g) Correctly registers or records all votes cast for any and all persons and for or against any and all measures.
- (h) Can be adjusted so that the counting mechanism rejects any vote cast on the tabulating card in excess of the number which the voter is entitled to vote.
- (i) Provides that a vote for more than one (1) candidate cannot be cast by one (1) single operation of the machine or vote tally system.

(2) A vote tally system shall be:

- (a) Capable of correctly counting votes on ballots or ballot cards on which the proper number of votes have been marked for any office or question or issue that has been voted.
- (b) Capable of ignoring the votes marked for any office or question or issue where more than the allowable number of votes have been marked, but shall correctly count the properly voted portions of the ballot card.

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(c) Capable of accumulating a count of the specific number of ballots or ballot cards tallied for a precinct, accumulating total votes by a candidate for each office; and accumulating total votes for and against each question and issue of the ballots or ballot cards tallied for a precinct.

(d) Capable of tallying votes from ballots or ballot cards of different political parties, from the same precinct, in the case of a primary election.

(e) Capable of accommodating rotation of candidates' names on the ballot or ballot card, provided that all ballots or ballot cards from one (1) precinct shall be of the same rotation sequence.

(f) Capable of automatically producing precinct totals in either printed, marked, or punched form, or combinations thereof.

History: [S.L. 1970, ch. 140]

34-2411. DUTIES OF CLERKS OF ELECTION BOARDS. (1) The secretary of state shall issue an administrative order outlining the duties of each of the clerks on the election board. He shall devise and prescribe for use by each local election officer the contents, form, character and kinds of ballots, ballot labels, ballot cards, formats, records, papers and documents and other materials and supplies and procedures necessary in the use of voting machines or vote tally systems and in the process of counting and tabulating the ballots by mechanical or electrical counting devices or equipment or computers.

(2) The secretary of state shall prescribe rules and regulations to achieve and maintain the maximum degree of correctness, impartiality and efficiency on the procedures of voting, and of counting, tabulating and recording votes, by the devices, machines or vote tally systems and methods provided by this act.

History: [S.L. 1970, ch. 140]

34-2412. COMPOSITION OF PRECINCT ELECTION BOARDS. (1) The election board of each election precinct in which a voting machine or vote tally system is used shall consist of an election judge and one (1) or more clerks. Each election board shall contain personnel representing all existing political parties if a list of applicants has been provided to prior to the primary election. The county clerk shall establish the number of election board clerks.

(2) The qualifications and duties of election judges shall apply to the appointment of election board clerks in counties or precincts where voting machines or vote tally systems are used.

History: [S.L. 1970, ch. 140; am.1974, ch. 75; am.1989, ch. 346; am.2012, ch. 211]

34-2413. PREPARATION OF MACHINES FOR USE—INSTRUCTIONS. (1) Before each election at which voting machines or vote tally systems are to be used, the county clerk of a county, in which voting machines or vote tally systems are to be used, shall cause them to be properly prepared and shall cause the election board to be properly instructed in their use.

(2) For the purpose of giving such instruction, the county clerk shall call the meeting or meetings of the election board that are necessary. Each election board shall attend the meetings and receive the instruction necessary for the proper conduct of the election with the machine or vote tally system.

(3) No election board judge or clerk shall serve in any election at which a voting machine or vote tally system is used unless he has received the required instruction and is fully qualified to perform the duties in connection with the machine or vote tally system; but this requirement shall not prevent the appointment of an election board clerk to fill a vacancy in an emergency.

History: [S.L. 1970, ch. 140; am.2012, ch. 211]

34-2414. PRINTED MATTER AND SUPPLIES. (1) The election officer charged with the duty of providing ballots shall provide all necessary instruction, forms and supplies required for the proper use of the voting machines or vote tally systems.

(2) Within a proper and reasonable time before the first election at which voting machines or vote tally systems are to be used, the secretary of state shall prepare samples of the printed matter and supplies required. He shall furnish one (1) of each of the samples to the election officer in charge of the election of each county, city, district or other political subdivision in which the machines or vote tally systems are to be used.

(3) The county clerk or other election officer shall deliver voting machines to each election board as provided for election supplies.

History: [S.L. 1970, ch. 140]

34-2415. PREPARATION OF POLLING PLACE FOR ELECTION. (1) The election board of each election precinct in which a voting machine is to be used shall meet at the polling place for the election precinct at least thirty (30) minutes before the time set for opening the polls. Before preparing the machine for voting, the election board shall proceed as prescribed in subsection (2) of this section.

(2) The election board shall:

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(a) Cause the voting machine to be placed where it can be conveniently attended by the election board and conveniently operated by the voters and where the ballot labels on the machines can be plainly seen by the election board and the public when not being voted on.

(b) Cause the model to be placed where each voter can conveniently operate it and receive instructions on the model as to the manner of voting before entering the voting machine booth.

(c) Determine that the ballot labels are in the proper place on the machine.

(3) After performing their duties as provided in this section, the election board shall certify to the fact in the appropriate places in the poll book.

History: [S.L. 1970, ch. 140]

34-2416. PROCEDURE FOR PREPARING MACHINES FOR AN ELECTION. (1) In preparing a voting machine for an election, the county clerk or the clerk of the city, district or other political subdivision, as the case may be, shall:

(a) Arrange the machine and the ballot labels so that it shall in every particular case meet the requirements of voting and counting at such elections.

(b) Thoroughly inspect and test the machine, and file a certificate in his office that the ballot labels have been properly arranged.

(2) The arrangement of offices and names of candidates upon the ballot labels shall conform as nearly as practicable to the provisions of law for the arrangement of names on paper ballots, and in the event that there are more candidates for any office than can be placed upon one (1) page, the labels shall be clearly marked to indicate that the names of candidates for the office are continued on the following page.

(3) Representatives of political parties and candidates shall be permitted to examine the voting machines or vote tally systems.

History: [S.L. 1970, ch. 140]

34-2417. NOTICE OF LOCATIONS OF VOTING MACHINES AND POLLING PLACES. Before preparing the voting machines or vote tally systems for any election, the county clerk shall mail to the chairman of the county or legislative district central committees of each political party who has notified such clerk that notice is desired, a written notice stating the time and place or places where voting machines or vote tally systems will be prepared for the election. At such times and places, one (1) representative of each political party is entitled to be present and see that the machines or vote tally systems are properly prepared and placed in proper condition and order for use at the election. In nonpartisan elections each candidate may designate one (1) representative who has the same powers as the political party representatives. The political party and candidate representatives shall certify that they have witnessed the testing and preparation of the machines or vote tally systems. The certificates shall be filed in the office of the county clerk.

History: [S.L. 1970, ch. 140]

34-2418. BALLOTS AND BALLOT LABELS. (1) The ballots and ballot labels required to be furnished for general or special elections shall be printed in black ink on clear white material of such size and arrangements as to suit the construction of the machine. The ballot labels for measures may contain a condensed statement of purpose for each measure to be voted on, accompanied by the words “**Yes**” and “**No**.” The title of the offices on the ballot labels shall be printed in type as large as the space for the office will reasonably permit. Where more than one (1) candidate can be voted for an office, there shall be printed below the office title words indicating the number the voter is lawfully entitled to vote for out of the whole number of candidates, such as “**Vote for Two**.”

(2) The ballots and ballot labels required to be furnished for primary elections may be of different colors for the political parties who are nominating or electing candidates.

(3) The “**judiciary ballot**” may be added to the ballot labels for the political parties. Candidates for the above offices will be shown under the general title of nonpartisan judicial candidates.

(4) When a vote tally system is used, the county clerk shall prepare the ballots as nearly as practicable as required by law.

History: [S.L. 1970, ch. 140; am.1994, ch. 54]

34-2419. ROTATION OF NAMES OF CANDIDATES. In each primary and general election when two (2) or more persons are candidates for nomination or election to the same office, the county clerk or the clerk of a city, district or other municipality in which voting machines or vote tally systems are used shall rotate the names of candidates as directed by the secretary of state.

History: [S.L. 1970, ch. 140]

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34-2420. EXAMINATIONS OF FACE OF MACHINE DURING ELECTION. The election board shall occasionally examine the face of the voting machine and the ballot labels to determine that the machine and the ballot labels have not been damaged or tampered with.

History: [S.L. 1970, ch. 140]

34-2421. PROCEDURE IF A VOTING MACHINE BECOMES INOPERATIVE. (1) If any voting machine used in any election precinct, during or before the time the polls are opened, becomes damaged so as to render it inoperative in whole or in part, an election board clerk immediately shall notify the election officer charged with the care of the machine.

(2) If possible, the election officer so notified shall repair the machine at once or substitute another machine for the damaged machine.

(3) If no other machine can be procured for use at the election and the damaged machine cannot be repaired in time for further use at the election, or where in the discretion of a majority of the members of the election board it is impracticable to use the machine, the election board shall permit the voters to use paper ballots prepared as in cases where paper ballots are used. The paper ballots shall be furnished to the election board by the county clerk. The paper ballots shall be issued, voted and deposited in ballot boxes in as nearly the same manner as provided by law, except that the paper ballots shall not be tallied and returned by the election board. Instead, these paper ballots shall be delivered to the county clerk for his tally and canvass.

History: [S.L. 1970, ch. 140; am.1971, ch. 5]

34-2422. CLOSING OF POLLS—DELIVERY OF BALLOTS TO CLERK BEFORE POLLS CLOSED. (1) At the hour for closing the polls, the election board shall declare the polls of the election closed and shall not permit any further voting. However, electors who are, at the hour of closing, within the polling room or awaiting their turn to vote shall be considered as having begun the act of voting and shall be permitted to cast their votes.

(2) At any time prior to the closing of the polls provision may be made for the delivery of voted ballots to the county clerk or the clerk of a city, district or other political subdivision for counting. If such procedure is adopted, the result of this early count shall not be released to the public until after 8:00 p.m. of election day.

History: [S.L. 1971, ch. 5]

34-2423. ABSENT VOTING BY VOTING MACHINE OR PAPER BALLOT. The county clerk may provide that absent voting shall be either by voting machine or by marking a paper ballot or a combination of both. In any of the foregoing cases he may establish one (1) absent elector unit to handle and process absent elector ballots for each legislative district within his county and shall cause sufficient ballots of the proper kind or kinds to be provided.

Voted ballots shall be retained by the county clerk until election day when they shall be transferred to the ballot processing center and thereafter made a part of the election returns.

History: [S.L. 1970, ch. 140; am.1976, ch. 73]

34-2424. PAPER BALLOTS USED IN CONJUNCTION WITH VOTING MACHINES. In any election where voting machines or vote tally systems are used:

(1) Paper ballots may be used to record the electors' votes for party offices.

(2) Paper ballots may be used to record the electors' votes for or against municipal candidates or measures.

(3) Paper ballots which are used in conjunction with voting machines may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code.

(4) Ballots or ballot cards may be returned to the office of the county clerk for counting.

(5) In the event that paper ballots are used in conjunction with voting machines or vote tally systems to record write-in votes, these paper ballots may be returned to the office of the county clerk for counting by special counting boards. Ballots so counted shall be tallied and returned by precinct or polling location for elections conducted pursuant to chapter 14, title 34, Idaho Code.

History: [S.L. 1970, ch. 140; am.2012, ch. 211]

34-2425. PREPARATION AND DISTRIBUTION OF SAMPLE BALLOTS. (1) At each primary, general and special election there shall be provided as many sample ballots as the county clerk considers necessary. The sample ballots shall be prepared and distributed as provided by law.

(2) For each primary, general and special election the county clerk shall cause to be published a facsimile, except as to size, of the sample ballot required in subsection (1) of this section.

History: [S.L. 1970, ch. 140]

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34-2426. EXHIBITION OF VOTING MACHINES FOR INSTRUCTION OF VOTERS. (1) Before each election at which voting machines are to be used the county clerk shall place on public exhibition a suitable number of voting machines for the proper instruction of voters. The machines shall be arranged and equipped with ballot labels so as to best illustrate the method of voting at that election and so far as practicable, shall contain:

(a) The names of the offices to be filled.

(b) The names of the candidates to be voted for, together with their proper party designations in case of party elections.

(c) Statements of the measures to be voted on.

(2) In addition to supplying sample ballots, the county clerk shall, before the election, take reasonable additional steps to familiarize the voters with a diagram showing the face of the voting machine after the official ballot labels are arranged thereon with illustrated instructions how to vote, and with the locations of the voting machines that are on public exhibition.

(3) Before each election at which a vote tally system is to be used, the county clerk shall make every reasonable effort to acquaint the electors within his county with the ballot format and the marking system.

History: [S.L. 1970, ch. 140]

34-2427. VOTERS WITH PHYSICAL OR OTHER DISABILITY. (1) The election board clerks shall instruct electors on how to record their votes on the voting machine or vote tally system, and shall give assistance to any elector who declares that he is unable by reason of physical or other disability to record his vote on the machine or vote tally system, and on request by the elector after he has entered the voting booth, shall give him the necessary information to enable him to record his vote.

(2) Any elector who, because of blindness, physical or other disability, is unable to mark his ballot shall, upon request, receive the assistance of the election board clerks or some other person chosen by the elector in the marking thereof. Such clerks or person shall ascertain the wishes of the elector and mark his ballot in accordance therewith, and shall thereafter give no information regarding such marking. Whenever an elector receives assistance in this manner, a clerk shall make a notation thereof in the combination election record and poll book following the name of the elector.

(3) If any elector, after entering the voting booth, asks for information regarding the operation of the voting machine or marking device, the election board clerks shall give him the necessary information.

History: [S.L. 1970, ch. 140; am.1972, ch. 129; am.2010, ch. 235; am.2015, ch. 282]

34-2429. VALIDATION OF ELECTIONS. All elections, including but not limited to bond issue elections, heretofore conducted pursuant to this chapter and all proceedings had or to be had in the authorization and issuance of the bonds authorized thereat, together with all such bonds when issued, are hereby validated, ratified and confirmed, and all such bonds when issued are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which are being contested at the time this act takes effect.

History: [S.L. 1974, ch. 3]

34-2430. [REPEALED: AM. 1972, ch. 129]

34-2431–34-2446. [REPEALED: AM. 1970, ch. 140]

Chapter 25: Election Campaign Fund [REPEALED]

34-2501–34-2505. [REPEALED: AM. 2010, ch. 3]

Title 1
Courts and Court Officials

Title 1: Courts and Court Officials (excerpt)

Chapter 22: Magistrate Division of the District Court

1-2203A. DISTRICT MAGISTRATES COMMISSION — TERMS. (1) Except as otherwise provided in this subsection, the mayors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to hold the office that entitles them to membership on the commission. The terms of all mayors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a mayor to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

- (a) Mayor A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of mayor A shall end on September 30 in years that end in two (2) or seven (7);
- (b) Mayor B, the initial term shall be three (3) years, ending September 30, 2024, and thereafter the term of mayor B shall end on September 30 in years that end in four (4) or nine (9); and
- (c) Mayor C, the initial term shall be five (5) years, ending September 30, 2026, and thereafter the term of mayor C shall end on September 30 in years that end in one (1) or six (6).

(2) Except as otherwise provided in this subsection, the qualified electors shall serve terms on the commission of five (5) years and may succeed themselves, provided that their terms will end when they cease to reside in the district. The terms of all qualified electors serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a qualified elector to an applicable designated position on the commission. On and after October 1, 2021, with respect to:

- (a) Elector A, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of elector A shall end on September 30 in years that end in three (3) or eight (8); and
- (b) Elector B, the initial term shall be four (4) years, ending September 30, 2025, and thereafter the term of elector B shall end on September 30 in years that end in zero (0) or five (5).

(3) Except as otherwise provided in this subsection, attorneys shall serve for a term of two (2) years and may succeed themselves for two (2) additional terms. The terms of all attorneys on a magistrates commission on September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint an attorney to an applicable designated position on the commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to:

- (a) Attorney A, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of attorney A shall end on September 30 in even-numbered years; and
- (b) Attorney B, the initial term shall be two (2) years, ending September 30, 2023, and thereafter the term of attorney B shall end on September 30 in odd-numbered years.

(4) Except as otherwise provided in this subsection, the magistrate judge shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all magistrate judges serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a magistrate judge to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, the term of the magistrate judge shall end on September 30 in odd-numbered years.

(5) Except as otherwise provided in this subsection, the county clerk shall serve for a term of two (2) years and may succeed himself for two (2) additional terms. The terms of all county clerks serving on a magistrates commission as of September 30, 2021, shall terminate on September 30, 2021, provided, however, the appointing authority may reappoint a county clerk to the magistrates commission, subject to the term limit in this subsection. On and after October 1, 2021, with respect to the county clerk, the initial term shall be one (1) year, ending September 30, 2022, and thereafter the term of the county clerk shall end on September 30 in even-numbered years.

History: [S.L. 2021, ch. 85]

1-2203B. DISTRICT MAGISTRATES COMMISSION — VACANCIES — TEMPORARY VACANCIES — TEMPORARY MEMBERS. (1) A vacancy on the commission shall be caused by a voting member dying, resigning, moving his residence outside the district, moving his residence to another county, and, in the case of a mayor, magistrate judge, district judge, county clerk, or county commissioner member, losing his status as such official for any reason; provided, however, that except in the case of death or resignation of a member, the member who is not otherwise disqualified by law from continuing to serve shall continue to serve until a successor is duly appointed and qualified.

(2) In the case of an attorney member, a vacancy on the commission shall also be caused by being suspended or disbarred from the practice of law.

(3) Appointments to fill all vacancies, including temporary vacancies, shall be made by the initial appointing authority for the unexpired term or for the period of any temporary vacancy.

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(4) A temporary vacancy on the commission shall be caused by an attorney member currently practicing law in the same firm as an applicant seeking a magistrate judge's position in the commission's judicial district or by an attorney member or a magistrate judge member having been engaged in the practice of law as a partner of such applicant within the last five (5) years.

(5) A temporary vacancy on the commission for the county clerk member shall occur if the magistrate judge position being filled or the removal process of a magistrate judge is in the county clerk's county.

(6) Temporary attorney members may be nominated in such number as the bar association in each district deems appropriate at any time by the respective district bar association and appointed by the Idaho state bar to fill any temporary attorney member vacancy on the district magistrates commission.

(7) It shall be the duty of any member who has become disqualified for any reason promptly to report that fact in writing to the chairman and secretary of the commission. It shall be the duty of the chairman or secretary promptly to report in writing to the appropriate appointing authority the existence of any vacancy on the commission.

History: [S.L. 2021, ch. 85]

[EFFECTIVE UNTIL JULY 1, 2024]

1-2205. DISTRICT MAGISTRATES COMMISSION — POWERS AND DUTIES. The district magistrates commission shall have the following powers and duties:

(a) To determine the number and location of magistrate judges to be appointed within the judicial district, subject to appropriations by the legislature, pursuant to section 1-2215, Idaho Code; provided, that there shall be at least one (1) resident magistrate judge appointed in each county, except for those counties in which the board of county commissioners, at any time, has adopted by majority vote, without subsequent rescission, a resolution waiving the right to a resident magistrate judge, pursuant to section 31-879, Idaho Code;

(b) To appoint the magistrate judges within the district on a nonpartisan merit basis, except as provided in section 1-2220, Idaho Code;

(c) To conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements therein to the legislature, the supreme court, the district court and such other governmental agencies as may be interested in or affected by such recommendations.

The actions of the commission pursuant to subsections (a) and (b) of this section shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days after written notice to the district judges of the commission's actions, unless such time be extended for good cause by order of the supreme court.

[EFFECTIVE JULY 1, 2024]

1-2205. DISTRICT MAGISTRATES COMMISSION — POWERS AND DUTIES. (1) The district magistrates commission shall have the following powers and duties:

(a) To determine the number and location of magistrate judges to be appointed within the judicial district, subject to appropriations by the legislature, pursuant to section 1-2215, Idaho Code; provided, that there shall be at least one (1) resident magistrate judge appointed in each county, except for those counties in which the board of county commissioners, at any time, has adopted by majority vote, without subsequent rescission, a resolution waiving the right to a resident magistrate judge, pursuant to section 31-879, Idaho Code;

(b) To appoint the magistrate judges within the district on a nonpartisan merit basis, except as provided in section 1-2220, Idaho Code;

(c) To conduct studies for the improvement of the administration of justice within the district and to make recommendations for improvements therein to the legislature, the supreme court, the district court and such other governmental agencies as may be interested in or affected by such recommendations; and

(d) To carry out the provisions of chapter 60, title 19, Idaho Code, assigned to the district magistrates commission.

(2) The actions of the commission pursuant to subsection (1)(a) and (b) of this section shall be subject to disapproval by a majority of the district judges in the district within thirty (30) days after written notice to the district judges of the commission's actions, unless such time be extended for good cause by order of the supreme court.

History: [S.L. 1969, ch. 104; am. 1973, ch. 78; am. 1977, ch. 233; am. 1980, ch. 393; am. 1981, ch. 111; am. 2008, ch. 38; am. 2023, ch. 220]

1-2206. MAGISTRATES — QUALIFICATIONS — INSTITUTE — EXCEPTIONS — OFFICE APPOINTIVE. (1) A magistrate shall be an elector of the state of Idaho and shall reside in the county for which the appointment is made throughout the term of service as magistrate.

(2) To be appointed to the office of magistrate judge, a person must, at the time of such appointment, meet all of the following qualifications:

(a) Be at least thirty (30) years of age;

(b) Be a citizen of the United States;

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- (c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such appointment;
- (d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such appointment; and
- (e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least five (5) continuous years immediately preceding such appointment.

For purposes of this section, the following terms have the following meanings:

- (a) “**Active**,” “**judicial**” and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;
- (b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia or any branch of the United States military; and
- (c) “**Elector**” means one who is lawfully registered to vote.

(3) Magistrates shall, within one (1) year of taking office for the first time as magistrates, attend an institute on the duties and functioning of the magistrate’s office to be held under the supervision of the supreme court, unless such attendance is waived by the supreme court. All magistrates shall be entitled to their actual and necessary expenses while attending institutes. The supreme court will establish the institute to which this subsection refers and will provide that the institute be held at such other times and for such other purposes as it deems necessary and may require the attendance of magistrates.

(4) Notwithstanding the provisions of subsection (2) of this section, all magistrates holding office on the effective date of this act shall be eligible for appointment to the office of magistrate and for retention in office pursuant to section 1-2220, Idaho Code.

History: [S.L. 1969, ch. 104; am. 1979, ch. 149; am. 1982, ch. 217; am. 1982, ch. 298; am. 2015, ch. 310; am. 2019, ch. 185.]

1-2207. MAGISTRATES—TERM—REMOVAL—VACANCIES. (1) The term of office of a magistrate shall be four (4) years. The term of office of a magistrate shall begin on the second Monday of January of the odd-numbered year next succeeding his election.

(2) Vacancies in the office of magistrate shall be filled by appointment pursuant to section 1-2205, Idaho Code.

(3) Any magistrate appointed pursuant to section 1-2205, Idaho Code, and subsection (2) of this section, shall exercise the authority of a magistrate from the date of taking office. A magistrate appointed after the effective date of this act may be removed from office within eighteen (18) months of his appointment by majority vote of all the voting members of the district magistrates commission without cause in accordance with procedures to be established by rules of the Supreme Court.

(4) A magistrate may be removed from office before the expiration of the term to which he was appointed or elected as provided by section 1-2103A, Idaho Code.

History: [S.L. 1969, ch. 104; am. 1973, ch. 78; am. 1974, ch. 116; am. 1977, ch. 233; am. 1979, ch. 149; am. 1990, ch. 71]

1-2220. RETENTION OR NONRETENTION OF MAGISTRATE BY VOTE. Any magistrate appointed pursuant to the provisions of section 1-2205, Idaho Code, and section 1-2207(2), Idaho Code, shall stand for office in the first general election next succeeding the expiration of the eighteen (18) month period established pursuant to section 1-2207, Idaho Code. Any magistrate may, not less than ninety (90) days prior to the holding of the general election next preceding the expiration of his term of office, file in the office of the county clerk of the county for which he is a resident magistrate, accompanied by a filing fee of forty dollars (\$40.00), a declaration of candidacy to succeed himself. If a declaration is not so filed by any magistrate, the vacancy resulting from the expiration of his term of office shall be filled by appointment as herein provided, except that any magistrate who does not file shall be ineligible for appointment within the same judicial district until two (2) years following the expiration of his last term of office have expired. If such declaration is filed, his name shall be submitted at the next general election to the voters eligible to vote within the county for which he is appointed, on a nonpartisan judicial ballot, without party designation, which shall read:

“Shall Magistrate _____ (here insert the name of the magistrate) of _____
_____ (here insert the name of the county) County of the _____ (here insert the
judicial district number) Judicial District be retained in office?” (Here provision is to be made for voting “Yes” or
“No”.)

The votes shall be canvassed as provided in chapter 12, title 34, Idaho Code.

If a majority of those voting on the question vote against retaining him in office, upon the expiration of his term of office, a vacancy shall exist which shall be filled by appointment as provided in section 1-2205, Idaho Code, except that the magistrate not retained in office shall be ineligible for appointment within the same judicial district until two (2) years following the expiration of his last term of office have expired.

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If a majority of those voting on the question vote for retaining him in office, the county clerk shall issue him a certificate of election as provided in section 34-1209, Idaho Code, and said magistrate shall, unless removed for cause, remain in office for an additional term of four (4) years, and at the expiration of each such four (4) year term shall be eligible for retention in office by election in the manner herein prescribed.

History: [S.L. 1973, ch. 78; am. 1974, ch. 116; am. 1977, ch. 233; am. 1979, ch. 149; am. 2003, ch. 55]

Chapter 24: Court of Appeals

1-2404. NUMBER OF JUDGES—QUALIFICATIONS—CONDUCT AND DISCIPLINE—TERM—ELECTION—SELECTION—COMPENSATION. (1) The court of appeals shall consist of four (4) judges, and shall sit in panels of not less than three (3) judges each.

(2) To be elected or appointed to the office of judge of the court of appeals a person must, at the time of such election or appointment, meet all of the following qualifications:

- (a) Be at least thirty (30) years of age;
- (b) Be a citizen of the United States and an elector of the state of Idaho;
- (c) Have been a legal resident of the state of Idaho for at least two (2) continuous years immediately preceding such election or appointment;
- (d) Have been in good standing as an active or judicial member of the Idaho state bar for at least two (2) continuous years immediately preceding such election or appointment; and
- (e) Have held a license to practice law or held a judicial office in one (1) or more jurisdictions for at least ten (10) continuous years immediately preceding such election or appointment.

For purposes of this section, the following terms have the following meanings:

- (a) “**Active**”, “**judicial**”, and “**good standing**” have the same definitions as those terms are given by rule 301 of the Idaho bar commission rules or any successors to those rules;
- (b) “**Jurisdiction**” means a state or territory of the United States, the District of Columbia or any branch of the United States military; and
- (c) “**Elector**” means one who is lawfully registered to vote.

(3) A judge of the court of appeals shall be governed by the code of judicial conduct as promulgated by the Idaho supreme court, and shall be subject to removal, discipline, or retirement pursuant to section 1-2103, Idaho Code.

(4)(a) Judges of the court of appeals shall be appointed by the governor effective the first Monday of January, 1982, for the following initial terms: one (1) judge shall be appointed for a term to expire on the first Monday of January, 1985, one (1) judge shall be appointed for a term expiring two (2) years later, and one (1) judge shall be appointed for a term expiring two (2) further years later. Thereafter, the term of office of a judge of the court of appeals shall be six (6) years.

(b) Vacancies in the office of judge of the court of appeals shall be filled in the same manner as vacancies in the office of supreme court justice or district judge.

(c) The positions of judges of the Idaho court of appeals shall first be filled as vacancies. The judicial council shall submit to the governor its recommendations for the offices at the earliest practicable time after the effective date of this act. The governor may make the appointment at any time thereafter, to be effective the first Monday of January, 1982, for the terms set forth in subsection(4)(a) of this section.

(d) In making its nominations for the initial vacancies to be created by this act, the Idaho judicial council shall submit the names of not less than six (6) nor more than nine (9) qualified persons for the initial three (3) vacancies to be created by this act. Otherwise, the judicial council shall submit the names of not less than two (2) nor more than four (4) persons for each vacancy. The governor shall appoint the judges, identifying each appointment by the length of the term of appointment.

(e) Nominations and appointments to fill initial or subsequent vacancies shall be made with due regard for balanced geographical membership of the court of appeals.

(f) Subsequent terms of office of a judge who has been appointed to the court of appeals shall be subject to a statewide nonpartisan election to be held in the primary election next preceding the expiration of an appointed term in the same method and manner as a justice of the supreme court.

(g) A fourth judge of the court of appeals shall be appointed by the governor effective the first Monday of January, 2009, for an initial term to expire on the first Monday of January, 2013. Thereafter, the term of office for this position shall be six (6) years. The judicial council shall submit the names of not less than two (2) nor more than four (4) persons for the initial vacancy in this position under the procedure set forth in section 1-2102, Idaho Code. This position shall be subject to all of the provisions relating to qualifications, removal, discipline, retirement, filling of vacancies, election and compensation set forth in this chapter.

(5) Judges of the court of appeals, except for judges who have made an election to remain in the public employee retirement system of Idaho pursuant to section 1-2011, Idaho Code, shall receive compensation upon retirement as provided in chapter 20, title 1, Idaho Code.

History: [S.L. 1980, ch. 245; am. 1981, ch. 271; am. 1985, ch. 29; am. 1998, ch. 126; am. 2008, ch. 24; am. 2014, ch. 291; am. 2015, ch. 310]

Title 18
Crimes and Punishments

Title 18: Crimes and Punishments

Chapter 3: Nature and Extent of Punishment in General

18-310. IMPRISONMENT—EFFECT ON CIVIL RIGHTS AND OFFICES. (1) A sentence of custody to the Idaho state board of correction suspends all the civil rights of the person so sentenced, including the right to refuse treatment authorized by the sentencing court, and forfeits all public offices and all private trusts, authority or power during such imprisonment: provided that any such person may bring an action for damages or other relief in the courts of this state or have an action brought against such person; and provided further that any such person may lawfully exercise all civil rights that are not political during any period of parole or probation, except the right to ship, transport, possess or receive a firearm, and the right to refuse treatment authorized by the sentencing court.

(2) Upon final discharge, a person convicted of any Idaho felony shall be restored the full rights of citizenship, except that for persons convicted of treason or those offenses enumerated in paragraphs (a) through (ii) of this subsection the right to ship, transport, possess or receive a firearm shall not be restored. As used in this subsection, “**final discharge**” means satisfactory completion of imprisonment, probation and parole as the case may be.

- (a) Aggravated assault (18-905, 18-915, *Idaho Code*);
- (b) Aggravated battery (18-907, 18-915, *Idaho Code*);
- (c) Assault with intent to commit a serious felony (18-909, 18-915, *Idaho Code*);
- (d) Battery with intent to commit a serious felony (18-911, 18-915, *Idaho Code*);
- (e) Burglary (18-1401, *Idaho Code*);
- (f) Domestic battery, felony (18-918, *Idaho Code*);
- (g) Enticing of children, felony (18-1509, *Idaho Code*);
- (h) Forcible sexual penetration by use of a foreign object (18-6604, *Idaho Code*);
- (i) Indecent exposure, felony (18-4116, *Idaho Code*);
- (j) Injury to child, felony (18-1501, *Idaho Code*);
- (k) Intimidating a witness, felony (18-2604, *Idaho Code*);
- (l) Lewd conduct with a minor or child under sixteen (18-1508, *Idaho Code*);
- (m) Sexual abuse of a child under sixteen (18-1506, *Idaho Code*);
- (n) Sexual exploitation of a child (18-1507, *Idaho Code*);
- (o) Felonious rescuing prisoners (18-2501, *Idaho Code*);
- (p) Escape by one charged with, convicted of or on probation for a felony (18-2505, *Idaho Code*);
- (q) Unlawful possession of a firearm (18-3316, *Idaho Code*);
- (r) Degrees of murder (18-4003, *Idaho Code*);
- (s) Voluntary manslaughter (18-4006(1), *Idaho Code*);
- (t) Assault with intent to murder (18-4015, *Idaho Code*);
- (u) Administering poison with intent to kill (18-4014, *Idaho Code*);
- (v) Kidnapping (18-4501, *Idaho Code*);
- (w) Mayhem (18-5001, *Idaho Code*);
- (x) Rape (18-6101, *Idaho Code*);
- (y) Robbery (18-6501, *Idaho Code*);
- (z) Ritualized abuse of a child (18-1506A, *Idaho Code*);
- (aa) Cannibalism (18-5003, *Idaho Code*);
- (bb) Felonious manufacture, delivery or possession with the intent to manufacture or deliver, or possession of a controlled or counterfeit substance (37-2732, *Idaho Code*);
- (cc) Trafficking (37-2732B, *Idaho Code*);
- (dd) Threats against state officials of the executive, legislative or judicial branch, felony (18-1353A, *Idaho Code*);
- (ee) Unlawful discharge of a firearm at a dwelling house, occupied building, vehicle or mobile home (18-3317, *Idaho Code*);
- (ff) Unlawful possession of destructive devices (18-3319, *Idaho Code*);
- (gg) Unlawful use of destructive device or bomb (18-3320, *Idaho Code*);
- (hh) Attempt (18-306, *Idaho Code*), conspiracy (18-1701, *Idaho Code*), or solicitation (18-2001, *Idaho Code*), to commit any of the crimes described in paragraphs (a) through (gg) of this subsection.

CRIMES AND PUNISHMENTS

(ii) The provisions of this subsection shall apply only to those persons convicted of the enumerated felonies in paragraphs (a) through (hh) of this subsection on or after July 1, 1991, except that persons convicted of the felonies enumerated in paragraphs (r) and (s) of this subsection, for any degree of murder or voluntary manslaughter, shall not be restored the right to ship, transport, possess or receive a firearm, regardless of the date of their conviction if the conviction was the result of an offense committed by use of a firearm.

(3) A person not restored to the civil right to ship, transport, possess or receive a firearm may make application to the commission of pardons and parole to restore the civil right to ship, transport, possess or receive a firearm. The commission shall not accept any such application until five (5) years after the date of final discharge. The commission shall conduct the proceeding upon such application pursuant to rules adopted in accordance with the law. The commission shall not restore the right to ship, transport, possess or receive a firearm to any person convicted of murder in the first degree (~~18-4003~~, *Idaho Code*), murder in the second degree (~~18-4003~~, *Idaho Code*), or any felony enumerated in paragraphs (a) through (ii) of subsection (2) of this section, upon which the sentence was enhanced for the use of a firearm during the commission of said felony.

(4) Persons convicted of felonies in other states or jurisdictions shall be allowed to register and vote in Idaho upon final discharge which means satisfactory completion of imprisonment, probation and parole as the case may be. These individuals shall not have the right restored to ship, transport, possess or receive a firearm in the same manner as an Idaho felon as provided in subsection (2) of this section.

History: [S.L. 1972, ch. 336; am. 1981, ch. 182; am. 1982, ch. 368; am. 1991, ch. 202; am. 1993, ch. 120; am. 1993, ch. 184; am. 1998, ch. 171; am. 2003, ch. 113; am. 2003, ch. 253; am. 2004, ch. 166; am. 2016, ch. 296; am. 2022, ch. 124]

CHAPTER 23: ELECTIONS

18-2301. OFFICIAL NEGLIGENCE OR MALFEASANCE. Every person charged with the performance of any duty, under the provisions of any law of this state relating to elections, who wilfully neglects or refuses to perform it, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment for such acts or omissions is prescribed by this Code, punishable by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the state prison not exceeding five (5) years, or by both and shall in addition thereto, and regardless of whether or not criminal prosecution is undertaken, be subject to removal from office as provided in title 19, chapter 41, Idaho Code.

History: [S.L. 1972, ch. 336]

18-2302. FALSE SWEARING AS TO QUALIFICATIONS AS VOTER. Every person who, upon his right to vote being challenged at any election held under the laws of this state, wilfully, corruptly and falsely swears touching his qualifications as a voter, is guilty of perjury.

History: [S.L. 1972, ch. 336]

18-2303. REFUSAL TO BE SWORN OR TO ANSWER QUESTIONS. Every person who, after being required by the board of judges at any election, refuses to be sworn, or who, after being sworn, refuses to answer any pertinent question propounded by such board, touching his right, or the right of any other person, to vote, is guilty of a misdemeanor.

History: [S.L. 1972, ch. 336]

18-2304. PROCURING ILLEGAL VOTES. Every person who procures, aids, assists, counsels or advises another to give or offer his vote at any election, knowing that the person is not qualified to vote, is guilty of a misdemeanor.

History: [S.L. 1972, ch. 336]

18-2305. INTIMIDATION, CORRUPTION AND FRAUDS. Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly attempts to influence any elector in giving his vote, or to deter him from giving the same, or attempts by any means whatever, to awe, restrain, hinder or disturb any elector in the free exercise of the right of suffrage, or furnishes any elector wishing to vote, who can not read, with a ticket, informing or giving such elector to understand that it contains a name written or printed thereon different from the name which is written or printed thereon, or defrauds any elector at any such election, by deceiving and causing such elector to vote for a different person, for any office, than he intended or desired to vote for; or who, being officer, judge, or clerk of any election, while acting as such, induces, or attempts to induce, any elector, either by menace or reward, or promise thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor.

History: [S.L. 1972, ch. 336]

CRIMES AND PUNISHMENTS

18-2306. ILLEGAL VOTING OR INTERFERENCE WITH ELECTION. Every person not entitled to vote, who fraudulently votes, and every person who votes more than once at any one election, or knowingly hands in two (2) or more tickets folded together, or changes any ballot after the same has been deposited in the ballot box, or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll list, or ballots, or ballot box, for the purpose of breaking up or invalidating such election, or wilfully detains, mutilates, or destroys any election returns, or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly held and lawfully conducted, is guilty of a felony.

History: [S.L. 1972, ch. 336]

18-2307. ATTEMPTING TO VOTE WHEN NOT QUALIFIED OR TO VOTE MORE THAN ONCE. (1) It is unlawful for any alien to vote in any election held in this state solely or in part for the purpose of electing or nominating any candidate to any elective office. Every person not entitled to vote, who fraudulently attempts to vote, or who, after being entitled to vote, attempts to vote more than once at any election, is guilty of a misdemeanor.

(2) It shall be an affirmative defense to the provisions of subsection (1) of this section that an alien reasonably believed at the time of voting in violation of this section that such person was a citizen of the United States.

History: [S.L. 1972, ch. 336; am. 2023, ch. 267]

18-2308. ATTEMPT OF OFFICER TO ASCERTAIN VOTE. Every officer, judge, or clerk of an election, who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens, or suffers the folded ballot of any elector that has been handed in, to be opened or examined previous to putting the same into the ballot box, or who makes, or places any mark or device on any folded ballot, with a view to ascertain the name of any person for whom the elector has voted, or who, without the consent of the elector, discloses the name of any person which such officer, judge, or clerk has fraudulently or illegally discovered to have been voted for by such elector, is punishable by fine of not less than fifty dollars (\$50.00) nor more than one thousand (\$1,000).

History: [S.L. 1972, ch. 336; am. 2006, ch. 71]

18-2309. OFFICERS ATTEMPTING TO CHANGE RESULT. Every officer or clerk of election who aids in changing or destroying any poll list, or in placing any ballots in the ballot box, or taking any therefrom, or adds, or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot box before or after the ballots therein have been counted or adds to or mixes with, or attempts to add to or mix with the ballots polled any other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another to carry away or destroy, any poll list, ballot box or ballots lawfully polled, is guilty of a felony.

History: [S.L. 1972, ch. 336]

18-2310. FORGING OR COUNTERFEITING RETURNS. Every person who forges or counterfeits returns of an election purporting to have been held at a precinct, town, or ward where no election was in fact held, or wilfully substitutes forged or counterfeit returns of election in the place of the true returns for a precinct, town, or ward where an election was actually held, is guilty of a felony.

History: [S.L. 1972, ch. 336]

18-2311. ADDING TO OR SUBTRACTING FROM VOTES. Every person who wilfully adds to or subtracts from the votes actually cast at an election, in any returns, or who alters such returns, is guilty of a felony.

History: [S.L. 1972, ch. 336]

18-2312. AIDING AND ABETTING ELECTION OFFENSES. Every person who aids or abets in the commission of any of the offenses mentioned in the four preceding sections, is punishable by imprisonment in the county jail for the period of six (6) months, or in the state prison not exceeding two (2) years.

History: [S.L. 1972, ch. 336]

CRIMES AND PUNISHMENTS

18-2313. RIOTOUS CONDUCT AND INTERFERENCE WITH ELECTION. Any person who wilfully disturbs, or is guilty of any riotous conduct at or near, any election place or voting precinct, with intent to disturb the same, or interferes with the access of the electors to the polling place, or in any manner, with the free exercise of the election franchise of the voters, or any voter there assembled, or disturbs or interferes with the canvassing of the votes, or with the making of the returns, is guilty of a misdemeanor.

History: [S.L. 1972, ch. 336]

18-2314. BETTING ON ELECTIONS. Every person who makes, offers, or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any person, is guilty of a misdemeanor.

History: [S.L. 1972, ch. 336]

18-2315. ELECTION OFFENSES NOT OTHERWISE PROVIDED FOR. Unless a different punishment is otherwise prescribed by law, every person who willfully violates any of the provisions of the laws of this state relating to elections is punishable by fine not exceeding \$1,000, or by imprisonment in the state prison not exceeding five (5) years, or by both.

History: [S.L. 1972, ch. 336; am. 2017, ch. 293]

18-2316. TAMPERING WITH CERTIFICATES OF NOMINATION OR BALLOTS. No person shall falsely make, or make oath to, or fraudulently deface, or fraudulently destroy, any certificate of nomination, or any part thereof, or file, or receive for filing, any certificate of nomination, or letter of withdrawal, knowing the same or any part thereof to be falsely made, or suppress any certificate of nomination which has been duly filed, or any part thereof, or wilfully delay the delivery of any ballots, or forge or falsely make the official endorsement on the ballot, or wilfully destroy any ballot. Every person violating any of the provisions of this section shall be deemed guilty of a felony, and, upon conviction thereof in any court of competent jurisdiction, shall be punished by imprisonment in the penitentiary for a period of not less than one (1) year nor more than five (5) years.

History: [S.L. 1972, ch. 336]

18-2317. DESTROYING OR DEFACING SUPPLIES. No person shall, during the election, remove or destroy any of the supplies or conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to, or on the day of election, willfully deface or destroy any list of candidates posted in accordance with the provisions of title 34, Idaho Code, concerning elections. No person shall, during an election, tear down or deface the cards printed for the instruction of voters. Every person willfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall be fined in any sum not exceeding one thousand dollars (\$1,000).

History: [S.L. 1972, ch. 336; am. 2006, ch. 71]

18-2318. ELECTIONEERING AT POLLS. (1) On the day of any primary, general or special election, no person may, within a polling place, or any building in which an election is being held, or within one hundred (100) feet thereof:

- (a) Do any electioneering;
- (b) Circulate cards or handbills of any kind;
- (c) Solicit signatures to any kind of petition; or
- (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling place.

(3) Any election officer, sheriff, constable or other peace officer is hereby authorized, and it is hereby made the duty of such officer, to arrest any person violating the provisions of subsections (1) and (2) of this section, and such offender shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor exceeding one thousand dollars (\$1,000).

History: [S.L. 1986, ch. 97; am. 1997, ch. 360; am. 2006, ch. 71; am. 2007, ch. 202]

18-2319. ATTEMPT TO INFLUENCE VOTES. No person shall attempt to influence the vote of any elector by means of a promise or a favor, or by means of violence or threats of violence, or threats of withdrawing custom or dealing in business or trade, or enforcing the payment of a debt, or discharging from employment, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him, or by any other means.

History: [S.L. 1972, ch. 336]

CRIMES AND PUNISHMENTS

18-2320. BRIBERY OF ELECTORS. No person shall in any way offer a bribe to an elector to influence his vote.

History: [S.L. 1972, ch. 336]

18-2321. FRAUDULENT PERMISSION OF REGISTRATION. Any registry agent, or other person, who in any manner shall wilfully or corruptly permit any person not entitled to registration or to a certificate of registration, to be registered or have a certificate of registration, or who delays or fails to deliver the certified copies of the official register and the check list to the judges of election as required by law, or who permits any person to register after the date on which the registration books close, or who shall otherwise wilfully or corruptly violate any of the provisions of the law governing elections, the penalty for which is not herein specially prescribed, shall be punished for each and every offense by imprisonment in the penitentiary for a term of not less than one (1) year nor more than five (5) years, or by a fine of not less than \$100 nor more than \$2,000, or by both such fine and imprisonment in the discretion of the court.

History: [S.L. 1972, ch. 336]

18-2322. ILLEGAL REGISTRATION BY VOTER. Any person who shall willfully cause, or endeavor to cause, his name to be registered in any other election district than that in which he resides, or will reside prior to the day of the next ensuing election, except as herein otherwise provided, and any person who shall cause, or endeavor to cause, his name to be registered, knowing that he is not a qualified elector, and will not be a qualified elector on or before the day of the next ensuing election, in the election district in which he causes or endeavors to cause such registry to be made, and any person who shall induce, aid or abet any one in the commission of either of the acts in this section enumerated and described, shall be fined not less than fifty dollars (\$50.00) nor more than one thousand (\$1,000), or be confined in the county jail for not less than one (1) month nor more than six (6) months, or both.

History: [S.L. 1972, ch. 336; am. 2006, ch. 71]

18-2323. PLACING PLACARDS IN BOOTHS. Any person or officer of election who shall put, or permit to be put, into a voting booth, any placard, notice or device, except the sample ballots and cards of instruction as by law provided, intended or likely to call the attention of the voter to any candidate, or to urge the voter to vote for any particular candidate, or shall put, or allow anything to be put, into such booths for the use or comfort of the voter whereby the claims of any candidate are urged upon the voter, either directly or indirectly, shall be imprisoned in the county jail not to exceed three (3) months, or fined not to exceed \$500.00, or both.

History: [S.L. 1972, ch. 336]

Chapter 70: Trespass and Malicious Injury to Property

18-7029. PLACING POSTERS OR PROMOTIONAL MATERIAL ON PUBLIC OR PRIVATE PROPERTY WITHOUT PERMISSION. It shall be unlawful for any person to erect, install, attach or paint, or cause to be erected, installed, attached or painted, election posters or signs upon public or private property, real or personal, in the state of Idaho, without permission from the owner or occupant of such property, and it shall be unlawful for any person to place or leave any literature or other political, promotional or sales materials upon public or private property, real or personal, in the state of Idaho when the owner or occupant of such property, by a sign conspicuously posted on the property, or by other written or audio communication to such person, has forbidden the placing or leaving of literature or other political, promotional or sales material upon that property. Provided, however, that the granting of such permission by any public utility company on behalf of any candidate for public office shall constitute the granting of like permission by such public utility company to all other candidates for the same public office. Any violation of this section shall be a misdemeanor.

History: (am. 1972, ch. 336; am. 1994, ch. 167)

Title 59
Public Officers in General

Title 59: Public Officers In General

Chapter 9 Resignations And Vacancies

59-901. HOW VACANCIES OCCUR. (1) Every elective civil office shall be vacant upon the happening of any of the following events at any time before the expiration of the term of such office, as follows:

- (a) The resignation of the incumbent.
- (b) The death of the incumbent.
- (c) Removal of the incumbent from office by lawful procedure.
- (d) The decision of a competent tribunal declaring an elective office vacant due to apparent abandonment or prolonged incapacity or absence, or other basis as determined by the tribunal, provided such apparent abandonment, prolonged incapacity, absence or other basis is in excess of ninety (90) days.
- (e) The incumbent ceasing to be a resident of the state, district or county in which the duties of his office are to be exercised, or for which he may have been elected.
- (f) A failure to elect someone at the proper election, there being no incumbent to continue in office until a successor is elected and qualified, nor other lawful provisions for filling an elective office.
- (g) A forfeiture of elective office as provided by any law of the state.
- (h) Conviction of an incumbent officeholder of any felony, or of any public offense involving the violation of his oath of office.
- (i) The acceptance of a commission to any military office, either in the militia of this state, or in the service of the United States, which requires the incumbent in the civil office to exercise his military duties out of the state for a period of not less than sixty (60) days.

History: [S.L. 1890-1891; reen. 1899; am. R.C., sec. 317; reen. C.L., sec. 317; C.S., sec. 453; I.C.A., sec. 57-901; am. 2012, ch. 209]

59-902. RESIGNATIONS. Resignations of civil offices must be in writing, and may be made as follows:

1. By the governor, or the lieutenant governor, to the legislature, if in session; if not, to the secretary of state.
2. By senators and representatives in congress, and by all other state officers elected statewide by the qualified voters of the state, and by judges of the supreme court and district courts, and regents of the university, to the governor.
3. By members of the senate and house of representatives, to the presiding officers of their respective bodies, in session, who shall immediately transmit information of the same to the governor. If such bodies are not in session, to the governor.
4. By all county officers, to the county board, and by members of the county board, to the county auditor.
5. By all officers holding appointment, to the officer or body by whom they were appointed.

Such resignation shall not take effect until accepted by the board or officer to whom the same is made.

History: [S.L. 1890-1891; reen. 1899; compiled and reen. R.C., sec. 318; reen. C.L., sec. 318; C.S., sec. 454; I.C.A., sec. 57-902; am. 1975, ch. 21; am. 1977, ch. 105]

59-903. NOTICE OF REMOVAL TO APPOINTING OFFICER. Whenever an officer is removed, convicted of any infamous crime or offense involving a violation of his oath of office, or whenever his election or appointment is declared void, the body, judge, or officer before whom the proceedings were had, must give notice thereof to the officer empowered to fill the vacancy.

History: [R.S., sec. 432; compiled and reen. R.C., sec. 319; reen. C.L., sec. 319; C.S., sec. 455; I.C.A., sec. 57-903]

59-904. STATE OFFICES—VACANCIES, HOW FILLED AND CONFIRMED. (a) All vacancies in any state office, and in the supreme and district courts, unless otherwise provided for by law, shall be filled by appointment by the governor. Appointments to fill vacancies pursuant to this section shall be made as provided in subsections (b), (c), (d), (e), (f) and (g) of this section, subject to the limitations prescribed in those subsections.

(b) Nominations and appointments to fill vacancies occurring in the office of lieutenant governor, state controller, state treasurer, superintendent of public instruction, attorney general and secretary of state shall be made by the governor, subject to the advice and consent of the senate, for the balance of the term of office to which the predecessor of the person appointed was elected.

(c) Nominations and appointments to and vacancies in the following listed offices shall be made or filled by the governor subject to the advice and consent of the senate for the terms prescribed by law, or in case such terms are not prescribed by law, then to serve at the pleasure of the governor:

Director of the department of administration,

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Director of the department of finance,
Director of the department of insurance,
Director, department of agriculture,
Director of the department of water resources,
Director of the Idaho state police,
Director of the department of commerce,
Director of the department of labor,
Director of the department of environmental quality,
Director of the department of juvenile corrections,
Executive director of the commission of pardons and parole,
The state historic preservation officer,
The administrator of the division of human resources,
Member of the state tax commission,
Members of the board of regents of the university of Idaho and the state board of education,
Members of the Idaho water resource board,
Members of the state fish and game commission,
Members of the Idaho transportation board,
Voting members of the state board of health and welfare,
Members of the board of environmental quality,
Members of the board of directors of state parks and recreation,
Members of the board of correction,
Members of the industrial commission,
Members of the Idaho public utilities commission,
Members of the Idaho personnel commission,
Members of the board of directors of the Idaho state retirement system,
Members of the board of directors of the state insurance fund,
Members of the commission of pardons and parole.

(d) Appointments made by the state board of land commissioners to the office of director, department of lands, and appointments to fill vacancies occurring in those offices shall be submitted by the president of the state board of land commissioners to the senate for the advice and consent of the senate in accordance with the procedure prescribed in this section.

(e) Appointments made pursuant to this section while the senate is in session shall be submitted along with the letter of appointment to the senate forthwith for the advice and consent of that body. Appointments made pursuant to this section while the senate is not in session shall be submitted along with the letter of appointment to the senate pursuant to section 67-803, *Idaho Code*. Should the senate adjourn without granting its consent to an appointment the appointment shall thereupon become void and a vacancy in the office to which the appointment was made shall exist, and the office shall be deemed vacant upon the date of adjournment. It is the duty of the appointing authority to supply the senate with the letter of appointment. The appointee shall supply the senate with the documentation it requests.

All appointments made pursuant to subsection (c) of this section, except those appointments for which a term of office is fixed by law, shall terminate at the expiration of any gubernatorial term. Appointments to fill the vacancies thus created by the expiration of the term of office of the governor shall be forthwith submitted to the senate for the advice and consent of that body, and when so submitted shall be as expeditiously considered as possible.

Upon receipt of an appointment along with the letter of appointment in the senate for the purpose of securing the advice and consent of the senate, the appointment shall be referred by the presiding officer to the appropriate committee of the senate for consideration and report prior to action thereon by the full senate.

(f) Excepting the appointments made pursuant to subsection (c) of this section, whenever an appointee's term has expired as prescribed by law, the governor or the authorized appointing authority must fill the position within twelve (12) months of the expiration of the term. However, an office will be vacant if the governor or the authorized appointing authority:

(i) fails to timely appoint a qualified person at the earlier of the time required by law or required in this subsection; or (ii) fails to provide the senate with an appropriate letter or document of appointment by the thirty-sixth legislative day of the subsequent legislative session. All letters or documents of appointment must, as reasonably possible, accompany the additional documentation required by the senate. At the request of the secretary of the senate, the governor or the authorized appointing authority must provide the additional documentation.

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(g) It is the intent of the legislature that the provisions of this section as amended by this chapter shall not apply to appointments which have been made prior to the effective date of this chapter. It is the further intent of the legislature that the provisions of this section shall apply to the offices listed in this section and to any office created by law or executive order which succeeds to the powers, duties, responsibilities and authorities of any of the offices listed in subsections (c) and (d) of this section.

History: [S.L. 1890-1891; reen. 1899; compiled and reen. R.C., sec. 320; reen. C.L., sec. 320; C.S., sec. 465; I.C.A., sec. 57-904; am. 1969, ch. 413; am. 1974, ch. 22; am. 1977, ch. 105; am. 1985, ch. 160; am. 1994, ch. 180; am. 1995, ch. 44; am. 1996, ch. 232; am. 1996, ch. 421; am. 1998, ch. 428; am. 1999, ch. 311; am. 1999, ch. 370; am. 2000, ch. 132; am. 2000, ch. 469; am. 2004, ch. 346; am. 2007, ch. 360; am. 2010, ch. 335; am. 2015, ch. 338]

59-904A. LEGISLATURE—VACANCIES, HOW FILLED. In the event of a vacancy in the house of representatives or senate of the state of Idaho, such vacancy shall be filled as herein provided. The legislative district committee of the same political party, if any, of the former member whose seat is vacant shall submit, within fifteen (15) days, a list of three (3) nominations to the governor. The governor shall fill the vacancy by appointment from the list of three (3) nominations within fifteen (15) days. If no appointment has been made within fifteen (15) days, the legislative district committee shall designate one (1) of the three (3) nominees to fill the vacancy. The vacancy shall be so filled until the next general election after such vacancy occurs, when such vacancy shall be filled by election.

The legislative district committee of the same political party, if any, of the former member, shall select a person who possesses the constitutional qualifications to fill the vacant office to which he is nominated, and who is affiliated with the same political party, if any, as the former member whose seat is vacant. Upon the failure of the committee to make such selection before the expiration of the fifteen (15) day period the governor shall within five (5) days, fill said vacancy by appointing a person having the qualifications above set forth.

History: [S.L. 1971, ch. 128.]

59-905. OTHER STATE OFFICES—COUNTY AND CITY OFFICES—VACANCIES, HOW FILLED. Vacancies shall be filled in the following manner: In the office of the clerk of the Supreme Court, by the Supreme Court. In all other state offices, and in the membership of any board or commission created by the state, where no other method is specifically provided, by the governor. In county offices, by the procedure prescribed in section 59-906, *Idaho Code*, and in the membership of such board, by the governor. In city offices, by the mayor and council.

History: [S.L. 1890-1891; reen. 1899; compiled and reen. R.C., sec. 321; reen. C.L., sec. 321; C.S., sec. 457; I.C.A., sec. 57-905; am. 1975, ch. 21; am. 1982, ch. 4]

59-906. COUNTY OFFICES—VACANCIES. (1) Except as provided in subsection (2) of this section, all vacancies in any county office of any of the several counties of the state, except that of the county commissioners (who shall be appointed by the governor), shall be filled by appointment by the county commissioners of the county in which the vacancy occurs in accordance with the procedure prescribed below until the next general election, when such vacancy shall be filled by election.

The vacancy shall be filled as follows: the county central committee of the same political party, if any, of the former officer, whose office is vacant, shall submit a list of three (3) nominations to the board of county commissioners within fifteen (15) days from the day the office is vacated. The board of county commissioners shall fill the vacancy by appointment from the submitted list within fifteen (15) days. Should no appointment be made within fifteen (15) days, the county central committee of the political party submitting the nominations shall designate one (1) of the three (3) nominees to fill the vacancy. 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 office. Upon failure of the committee to make a selection before the expiration of the additional fifteen (15) day period, the board of county commissioners shall, within five (5) days, fill the vacancy by appointing a person having the same qualifications at the time of his appointment as those provided by law for election to the office. If the person who has vacated the office has not been affiliated with a political party, the vacancy shall be filled by the board of county commissioners by appointment of a person having the same qualifications at the time of his appointment as those provided by law for election to the office.

(2) When a county elected officer, except a county commissioner, gives a written notice of intent to resign to the board of commissioners of the county of which he is an elected officer, and when the notice of intent to resign specifies the effective date of the resignation, the county central committee of the same political party of the officer whose office is being vacated, may submit a list of three (3) nominations to the board of county commissioners prior to the effective date of the resignation. The board of county commissioners shall fill the vacancy by appointment from the submitted list to be effective on the day following the date the office is vacated by the former officer. 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 office. In the event the county elected officer rescinds his notice of intent to resign by notifying the board of county commissioners in

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writing prior to the effective date of his resignation, all actions taken by either the county central committee or the board of county commissioners to fill the anticipated vacancy, shall be null and void. If no appointment is made prior to the day the office is vacated, the provisions of subsection (1) of this section shall apply.

History: [S.L. 1899; reen. R.C. & C.L., sec. 322; C.S., sec. 458; I.C.A., sec. 57-906; am. 1975, ch. 21; am. 1982, ch. 4; am. 1984, ch. 192; am. 1991, ch. 81]

59-906A. BOARD OF COUNTY COMMISSIONERS—VACANCIES—HOW FILLED. In the event of a vacancy on a board of county commissioners, such vacancy shall be filled as herein provided. The county central committee of the same political party, if any, of the former member whose seat is vacant shall submit, within fifteen (15) days, a list of three (3) nominations to the governor. The governor shall fill the vacancy by appointment from the list of three (3) nominations within fifteen (15) days. If no appointment has been made within fifteen (15) days, the county central committee shall designate one (1) of the three (3) nominees to fill the vacancy. The vacancy shall be so filled until the expiration of the term in which the vacancy occurs. The county central committee of the same political party, if any, of the former member, shall select a person who possesses the constitutional qualifications to fill the vacant office to which he is nominated, and who is affiliated with the same political party, if any, as the former member whose seat is vacant. Upon failure of the committee to make such selection before the expiration of the fifteen (15) day period, the governor shall within five (5) days, fill said vacancy by appointing a person having the qualifications above set forth.

History: [S.L. 1974, ch. 78]

59-907. PROSECUTING ATTORNEY—VACANCY—RESIDENCY—CONTRACTING WITH ANOTHER PROSECUTING ATTORNEY. (1) In the event a vacancy exists and there are three (3) or fewer resident attorneys in the county who are willing and qualified to perform the functions of prosecuting attorney as set forth in chapter 26, title 31, Idaho Code, the board of county commissioners may appoint and/or contract with an attorney from outside the county to perform the duties of prosecuting attorney for the balance of the unexpired term or such shorter period as the board of county commissioners shall determine.

(2) A county may contract for prosecutorial services with another prosecuting attorney provided that:

(a) The circumstances of subsection (1) of this section have occurred;

(b) The boards of county commissioners of both affected counties adopt resolutions so authorizing the prosecutor to fill the vacancy or appointment and/or contract; and

(c) The length of the term of appointment or contract complies with subsection (1) of this section.

(3) Subsection (2) of this section shall operate as a limited exception to that portion of section 31-2601, Idaho Code, that prohibits a prosecuting attorney from holding any other county office.

History: [S.L. 1988, ch. 295; am. 1996, ch. 158; am. 2006, ch. 115]

59-908. RESIDENCE OF APPOINTED COMMISSIONER. Whenever the governor appoints a county commissioner to fill a vacancy in any county, he shall appoint a person who is a resident of the commissioner district of the county in which the vacancy exists.

History: [S.L. 1899; reen. R.C. & C.L., sec. 323; C.S., sec. 460; I.C.A., sec. 57-908]

59-910. UNITED STATES SENATOR—VACANCIES, HOW FILLED. Whenever any vacancy shall occur in the office of United States senator from the state of Idaho by death, resignation or otherwise, the governor shall have the power and is hereby authorized and empowered to fill such vacancy by appointment, and the person so appointed shall hold such office until such time as a United States senator is regularly elected to fill such vacancy, at the next succeeding general election, and qualifies by virtue of such election: provided, however, that in case a vacancy occurs in the position of United States senator from the state of Idaho within thirty (30) days of any general election, no election for United States senator to fill said vacancy shall be held at such general election.

History: [S.L. 1917; reen. C.L., sec. 325a; C.S., sec. 463; I.C.A., sec. 57-910.]

59-911. REPRESENTATIVE IN CONGRESS—VACANCIES, HOW FILLED. Whenever any vacancy shall occur in the office of representative in congress from the state, it shall be the duty of the governor to appoint a day to hold an election, subject to the provisions of section 34-106, Idaho Code, to fill such vacancy, and cause notice of such election to be given as required in section 34-1406, Idaho Code.

History: [S.L. 1890-1891; reen. 1899; reen. R.C. & C.L., sec. 326; C.S., sec. 464; I.C.A., sec. 57-911; am. 1995, ch. 118]

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59-912. VACANCIES NOT OTHERWISE PROVIDED FOR—HOW FILLED. When any office becomes vacant, and no mode is provided by law for filling such vacancy, the governor must fill such vacancy by appointment.

History: [R.S., sec. 434; am. R.C., sec. 327; reen. C.L., sec. 327; C.S., sec. 465; I.C.A., sec. 57-912; am. 1977, ch. 105]

59-913. APPOINTMENTS TO BE IN WRITING. Appointments under the provisions of this chapter shall be in writing, and continue until a successor is selected and qualified, and be filed with the secretary of state, or proper county auditor, respectively.

History: [S.L. 1890-1891; reen. 1899; reen. R.C. & C.L., sec. 328; C.S., sec. 466; I.C.A., sec. 57-913; am. 1977, ch. 105]

59-914. ASSUMPTION OF OFFICE—TENURE IN OFFICE. Any of the said officers that may be elected to fill vacancies may qualify and enter upon the discharge of the duties of their offices immediately thereafter; and, they may hold the same during the unexpired term for which they were elected.

Any of the said officers that may be appointed to fill vacancies may qualify and enter upon the discharge of the duties of their offices subject to the provisions of section 59-904, *Idaho Code*, for the term designated in the order of appointment.

History: [S.L. 1899; compiled and reen. R.C., sec. 329; reen. C.L., sec. 329; C.S., sec. 467; I.C.A., sec. 57-914; am. 1977, ch. 105]

59-915. VACANCY IN OFFICE—POSSESSION PENDING QUALIFICATION OF SUCCESSOR. When a vacancy occurs in a public office, the office and duties shall be assumed until the election or appointment and qualification of a successor as follows:

(1) Of the office of the county clerk, auditor and recorder or treasurer, by the senior deputy as designated in section 31-2006, *Idaho Code*. If no deputy is available, then the board of county commissioners shall assume the office until the election or appointment of a successor.

(2) Of any state executive officer, by the chief deputy, under the supervision of the governor.

History: [S.L. 1991, ch. 68]

59-916. POWERS AND DUTIES OF APPOINTEE. Any person elected or appointed to fill a vacancy, after filing his official oath and qualifying for the state official bond, as prescribed by chapter 8, title 59, *Idaho Code*, possesses all the rights and powers, and is subject to all the liabilities, duties and obligations, of the officer whose vacancy he fills.

History: [R.S., sec. 436; reen. R.C. & C.L., sec. 331; C.S., sec. 469; I.C.A., sec. 57-916; am. 1971, ch. 136]

59-917. TEMPORARY INABILITY OF OFFICERS. Whenever for any reason any elective official of the state, is temporarily unable to perform the duties of his office, the governor may appoint a suitable person to perform such duties temporarily as an acting officer, until the incumbent of the office shall be able to resume the performance of his duties, or a vacancy occurs in such office. The governor shall require such bonds for persons so appointed as may appear to him necessary for the protection of the state, not exceeding the bonds given by the officer in whose stead he acts. Such acting officer shall be nominated by the incumbent of the office: provided, that when the incumbent is unable or fails to so nominate, the governor may appoint without such nomination: provided further, that nothing in this section contained shall be construed to amend or repeal existing laws relating to filling vacancies in state offices. In any case involving an office, the appointment to which, at the time involved would, in case of vacancy, require the consent of the senate, the consent of the senate shall be requisite to the temporary service of the acting officer.

History: [S.L. 1890-1891; reen. 1899, sec.1, 2; am. R.C., sec. 332; reen. C.L., sec. 332; C.S., sec. 470; I.C.A., sec. 57-917; am. 1945, ch. 164]

Title 67, Chapter 66

The Sunshine Law

For Political Funds and Lobbyist Activity Disclosure

Title 67: State Government and State Affairs

Chapter 66: Election Campaign Contributions and Expenditures—Lobbyists

67-6601. PURPOSE OF CHAPTER. The purpose of this chapter is:

- (1) To promote public confidence in government; and
- (2) To promote openness in government and to promote transparency by those giving financial support to election campaigns and those promoting or opposing legislation or attempting to influence executive or administrative actions for compensation.

History: [Init. Measure 1974, No. 1; am. 2006, ch. 106; am. 2019, ch. 288]

67-6602. DEFINITIONS. As used in this chapter, the following terms have the following meanings:

(1) **“Candidate”** means an individual who seeks nomination, election, or reelection to public office and who has taken any of the following actions:

- (a) Announced the individual’s candidacy publicly;
- (b) Filed for public office;
- (c) Received a contribution for the purpose of promoting the individual’s candidacy for office; or
- (d) Made an expenditure, contracted for services, or reserved space with the intent of promoting the individual’s candidacy for office.

For purposes of this chapter, an incumbent shall be presumed to be a candidate in the subsequent election for his or her office until the incumbent has failed to file a declaration of candidacy by the statutory deadline.

(2) **“Compensation”** includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to do any of the foregoing, for services rendered or to be rendered, but does not include reimbursement of expenses if such reimbursement does not exceed the amount actually expended for such expenses and is substantiated by an itemization of such expenses.

(3) **“Contractor”** means a person who receives compensation from another person for either full-time or part-time work based on a contract or compensation agreement, but who is not an employee of that person.

(4) **“Contribution”** includes any advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, subscription or transfer of money or anything of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make a contribution, in support of or in opposition to any candidate, political committee or measure. Such term also includes personal funds or other property of a candidate or members of his household expended or transferred to cover expenditures incurred in support of such candidate but does not include personal funds used to pay the candidate filing fee. Such term also includes the rendering of personal and professional services for less than full consideration, but does not include ordinary home hospitality or the rendering of **“part-time”** personal services of the sort commonly performed by volunteer campaign workers or advisors or incidental expenses not in excess of twenty-five dollars (\$25.00) personally paid for by any volunteer campaign worker. **“Part-time”** services, for the purposes of this definition, means services in addition to regular full-time employment, or, in the case of an unemployed person or persons engaged in part-time employment, services rendered without compensation or reimbursement of expenses from any source other than the candidate or political committee for whom such services are rendered. For the purposes of this act, contributions, other than money or its equivalent shall be deemed to have a money value equivalent to the fair market value of the contribution.

(5) **“Election”** means any state or local general, special, recall, or primary election.

(6) **“Election campaign”** means any campaign in support of or in opposition to a candidate for election to public office and any campaign in support of, or in opposition to, a measure.

(7)(a) **“Electioneering communication”** means any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or telephone calls made to personal residences, or otherwise distributed that:

- (i) Unambiguously refers to any candidate; and
 - (ii) Is broadcasted, printed, mailed, delivered, made or distributed within thirty (30) days before a primary election or sixty (60) days before a general election; and
 - (iii) Is broadcasted to, printed in a newspaper, distributed to, mailed to or delivered by hand to, telephone calls made to, or otherwise distributed to an audience that includes members of the electorate for such public office.
- (b) **“Electioneering communication”** does not include:

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- (i) Any news articles, editorial endorsements, opinion or commentary, writings, or letter to the editor printed in a newspaper, magazine, or other periodical not owned or controlled by a candidate, political committee, or political party;
- (ii) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- (iii) Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such organization and their families;
- (iv) Any communication that refers to any candidate only as part of the popular name of a bill or statute;
- (v) A communication that constitutes an expenditure or an independent expenditure under this chapter.

(8) “**Employee**” means an individual who performs a service for wages or other compensation from which the individual’s employer withholds federal employment taxes under a contract for hire, written or oral.

(9) “**Executive official**” means:

- (a) The governor, lieutenant governor, secretary of state, state controller, state treasurer, attorney general, superintendent of public instruction and any deputy or staff member of any of those individuals who, within the course and scope of his or her employment, is directly involved in major policy-influencing decisions for the office;
- (b) A state department or agency director, deputy director, division administrator or bureau chief as established and enumerated in sections 67-2402 and 67-2406, *Idaho Code*;
- (c) The membership and the executive or chief administrative officer of any board or commission that is authorized to make rules or conduct rulemaking activities pursuant to section 67-5201, *Idaho Code*;
- (d) The membership and the executive or chief administrative officer of any board or commission that governs any of the state departments enumerated in section 67-2402, *Idaho Code*, not including public school districts;
- (e) The membership and the executive or chief administrative officer of the Idaho public utilities commission, the Idaho industrial commission, and the Idaho state tax commission; and
- (f) The members of the governing board of the state insurance fund and the members of the governing board and the executive or chief administrative officer of the Idaho housing and finance association, the Idaho energy resources authority, and the Idaho state building authority.

(10) “**Expenditure**” includes any payment, contribution, subscription, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure. The term “**expenditure**” also includes a promise to pay, a payment or a transfer of anything of value in exchange for goods, services, property, facilities or anything of value for the purpose of assisting, benefiting or honoring any public official or candidate, or assisting in furthering or opposing any election campaign.

(11) “**Independent expenditure**” means any expenditure by a person for a communication expressly advocating the election, passage or defeat of a clearly identified candidate or measure that is not made with the cooperation or with the prior consent of, or in consultation with, or at the consent of, or in consultation with, or at the request of a suggestion of, a candidate or any agent or authorized committee of the candidate or political committee supporting or opposing a measure. As used in this subsection, “**expressly advocating**” means any communication containing a message advocating election, passage or defeat including, but not limited to, the name of the candidate or measure, or expression such as “**vote for,**” “**elect,**” “**support,**” “**cast your ballot for,**” “**vote against,**” “**defeat**” or “**reject.**”

(12) “**Lobby**” and “**lobbying**” each means attempting through contacts with, or causing others to make contact with, members of the legislature or legislative committees or an executive official to influence the approval, modification or rejection of any legislation by the legislature of the state of Idaho or any committee thereof or by the governor or to develop or maintain relationships with, promote goodwill with, or entertain members of the legislature or executive officials. “**Lobby**” and “**lobbying**” shall also mean communicating with an executive official for the purpose of influencing the consideration, amendment, adoption or rejection of any rule or rulemaking as defined in section 67-5201, *Idaho Code*, or any ratemaking decision, procurement, contract, bid or bid process, financial services agreement, or bond issue. Neither “**lobby**” nor “**lobbying**” includes an association’s or other organization’s act of communicating with the members of that association or organization; and provided that neither “**lobby**” nor “**lobbying**” includes communicating with an executive official for the purpose of carrying out ongoing negotiations following the award of a bid or a contract, communications involving ongoing legal work and negotiations conducted by and with attorneys for executive agencies, interactions between parties in litigation or other contested matters, or communications among and between members of the legislature and executive officials and their employees, or by state employees while acting in their official capacity or within the course and scope of their employment.

(13) “**Lobbyist**” includes any person who lobbies.

(14) “**Lobbyist’s client**” means the person on whose behalf the lobbyist is acting, directly or indirectly, as a contractor, and by whom the lobbyist or lobbyist’s employer is compensated for acting as a lobbyist.

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(15) “**Lobbyist’s employer**” means the person or persons for whom a lobbyist is an employee, and by whom the lobbyist is compensated for acting as a lobbyist.

(16) “**Local government office**” means any publicly elected office for any political subdivision of the state or special district that is not a legislative, judicial, statewide, or federal office.

(17) “**Measure**” means any proposal submitted to the people for their approval or rejection at an election, including any initiative, referendum, recall election, or revision of or amendment to the state constitution. An initiative or referendum proposal shall be deemed a measure when the attorney general, county prosecutor, or city attorney, as appropriate, reviews it and gives it a ballot title. A recall shall be deemed a measure upon approval of the recall petition as to form pursuant to section 34-1704, *Idaho Code*.

(18) “**Nonbusiness entity**” means any group of two (2) or more individuals, a corporation, association, firm, partnership, committee, club or other organization that:

(a) Does not have as its principal purpose the conduct of business activities for profit; and

(b) Received during the preceding or current calendar year contributions, gifts or membership fees, which in the aggregate exceeded ten percent (10%) of its total receipts for such year.

(19) “**Person**” means an individual, corporation, association, firm, partnership, committee, political party, club or other organization or group of persons.

(20) “**Political committee**” means:

(a) Any person specifically designated to support or oppose any candidate or measure; or

(b) Any person who receives contributions and makes expenditures in an amount exceeding one thousand dollars (\$1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures. Any entity registered with the federal election commission shall not be considered a political committee for purposes of this chapter.

(c) A county, district or regional committee of a recognized political party shall not be considered a political committee for the purposes of this chapter unless such party committee has expenditures exceeding five thousand dollars (\$5,000) in a calendar year.

(21) “**Political treasurer**” means an individual appointed by a candidate or political committee as provided in section 67-6603, *Idaho Code*.

(22) “**Public office**” means any local, legislative, judicial, or state office or position that is filled by election but does not include the office of precinct committeeman.

History: [Init. Measure 1974, No. 1, sec. 2; am. 1977, ch. 180; am. 1978, ch. 58; am. 1986, ch. 218; am. 1992, ch. 196; am. 1993, ch. 189; am. 1994, ch. 5; am. 1994, ch. 379; am. 1997, ch. 393; am. 1999, ch. 176; am. 2001, ch. 291; am. 2004, ch. 277; am. 2005, ch. 254; am. 2006, ch. 106; am. 2008, ch. 306; am. 2012, ch. 162; am. 2015, ch. 284; am. 2019, ch. 288; am. 2019, ch. 290; am 2020, ch. 82]

67-6603. APPOINTMENT OF POLITICAL TREASURER. (a) Each candidate and political committee shall appoint a political treasurer and certify the full name and complete address of the political treasurer to the secretary of state. A political treasurer so appointed shall be a registered elector of this state. An individual may be appointed and serve as political treasurer for a candidate and a political committee or two (2) or more candidates or political committees. A candidate may appoint himself his own political treasurer.

(b) A candidate or political committee may remove his or its political treasurer. In case of the death, resignation or removal of his or its political treasurer before compliance with all obligations of a political treasurer under this act, such candidate or political committee shall appoint a successor and certify the name and address of the successor in the manner provided in the case of an original appointment.

(c) No contribution shall be received or expenditure made by or on behalf of a candidate or political committee:

(1) Until the candidate or political committee appoints a political treasurer and certifies the name and address of the political treasurer to the secretary of state or, in the event of a vacancy in the office of political treasurer, has certified the name and address of the successor as provided therein; and

(2) Unless the contribution is received or expenditure made by or through the political treasurer for the candidate or political committee.

History: [Init. Measure 1974, No. 1; am. 2015, ch. 244]

67-6604. ACCOUNTS OF POLITICAL TREASURER. (1) The political treasurer for each candidate or political committee shall keep detailed accounts, current within not more than seven (7) days after the date of receiving the contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this chapter.

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(2) Accounts kept by the political treasurer for a candidate or political committee may be inspected before the election to which the accounts refer by the secretary of state, or county clerk for local government offices or measures, or his agent or employee, who is making an investigation pursuant to section 67-6615, *Idaho Code*.

(3) Accounts kept by a political treasurer shall be preserved by him for at least one (1) year after the date of the election to which the accounts refer or at least one (1) year after the date the last statement is filed under section 67-6607, *Idaho Code*, whichever is later.

History: [Init. Measure 1974, No. 1; am. 2019, ch. 288]

67-6605. CONTRIBUTIONS OBTAINED BY A POLITICAL COMMITTEE. Contributions shall not be obtained for a political committee by use of coercion or physical force, by making a contribution a condition of employment or membership, or by using or threatening to use job discrimination or financial reprisals. A political committee may solicit or obtain contributions from individuals as provided in chapter 26, title 44, *Idaho Code*, or as provided in section 44-2004, *Idaho Code*. A violation of the provisions of this section shall be punished as provided in section 67-6625(2), *Idaho Code*.

History: [S.L. 1997, ch. 393; am. 2003, ch. 97; am. 2021, ch. 237]

67-6606. EXPENDITURES BY NONBUSINESS ENTITY. (1) Any nonbusiness entity that is not a political committee as defined in section 67-6602, *Idaho Code*, making expenditures in or directed to voters in the state of Idaho in an amount exceeding one thousand dollars (\$1,000) in any calendar year for the purpose of supporting or opposing one (1) or more candidates or measures shall file a statement with the secretary of state. The statement shall include:

(a) The name and address of the nonbusiness entity and the name and address of its principal officer or directors.

(b) The name and address of each person whose fees, dues, payments or other consideration paid to such nonbusiness entity during either of the prior two (2) calendar years has exceeded five hundred dollars (\$500) or who has paid or has agreed to pay fees, dues, payments or other consideration exceeding five hundred dollars (\$500) to such entity during the current year.

(2) This statement shall be filed within thirty (30) days of when the one thousand dollar (\$1,000) threshold mentioned in subsection (1) of this section is exceeded.

History: [S.L. 1994, ch. 379; am. 2015, ch. 284; am. 2019, ch. 288; am. 2019, ch. 290]

67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES BY CANDIDATES AND POLITICAL COMMITTEES.

(1) Each candidate or the political treasurer for each candidate, and each political committee or the political treasurer of each political committee, shall file with the secretary of state a statement of all contributions received and all expenditures and encumbrances made by or on behalf of the candidate or political committee, according to the schedule provided in this section. The statement shall itemize each contribution received and each expenditure or encumbrance made during the reporting period and shall include the following:

(a) Under contributions, the statement shall include a list of all the contributions received, including any funds or property of the candidate used to cover expenditures. The statement shall list the full name and complete address of each person who contributed an aggregate amount of more than fifty dollars (\$50.00) and the amount contributed by that person. The statement may list as a single item the total amount of contributions of fifty dollars (\$50.00) or less; and

(b) Under expenditures, the statement shall include the name and address of each person to whom an expenditure or encumbrance was made in the amount of twenty-five dollars (\$25.00) or more, and the amount, date, and purpose of each such expenditure. Each expenditure or encumbrance in the amount of twenty-five dollars (\$25.00) or more shall be evidenced by an invoice, receipt, or canceled check or an accurate copy thereof. Such evidence shall not be filed with the statement but shall be retained by the committee or candidate for a period of one (1) year after the statement has been filed. The statement may list as a single item the total amount of expenditures and encumbrances of less than twenty-five dollars (\$25.00) without showing the exact amount of or requiring evidence of each such expenditure or encumbrance. Anything of value, other than money, paid for or contributed by any person shall be listed both as an expenditure and as a contribution.

(2) For the first report under this section, the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance through the end of the current reporting period. Each candidate and each political committee, or the treasurer for a candidate or political committee or ballot measure, shall file the report described under subsection (1) of this section as follows:

(a) In the year of the election, a monthly report shall be filed for each month of the year. Each report shall be filed by the tenth day of the month following the month being reported; and

(b) For the nonelection year, an annual report covering the nonelection year shall be filed by January 10 of the following year.

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(3) Notwithstanding any other reports required under this section, each candidate and each political committee, or the political treasurer for each candidate and each political committee, shall notify the secretary of state of any contribution of one thousand dollars (\$1,000) or more. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate, political committee or measure, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the regular reports.

(4) All reports required pursuant to this section shall be filed online with the secretary of state, unless a waiver has been provided under section 67-6623, *Idaho Code*, by no later than midnight on the date the filing is due.

(5) Reports required to be filed under the provisions of this section shall be filed until the account no longer shows any unexpended balance of contributions or expenditure deficit.

History: [Init. Measure 1974, No. 1; am. 1977, ch. 225; am. 1986, ch. 218; am. 1987, ch. 344; am. 1990, ch. 62; am. 1992, ch. 196; am. 1993, ch. 203; am. 1994, ch. 379; am. 2002, ch. 240; am. 2010, ch. 22; am. 2015, ch. 231; am. 2019, ch. 288; am. 2020, ch. 7]

67-6608. SPECIAL PROVISION FOR CERTAIN ELECTIONS AND MEASURES. (1) The political treasurer for a candidate for a judicial office or a local government office, or for a political committee that is specifically designated to support or oppose a candidate or local ballot measure, is exempt from filing reports under section 67-6607, *Idaho Code*, unless and until such time as the candidate receives contributions or expends funds in the amount of five hundred dollars (\$500) or more. Within seven (7) calendar days of the five hundred dollar (\$500) threshold being met, the political treasurer for the candidate shall file a cumulative report covering the period from the first contribution or expenditure to the current date and shall file all subsequent reports according to section 67-6607, *Idaho Code*, regardless of amounts received or expended.

(2) The political treasurer for a political committee that is not specifically designated to support or oppose any candidate or measure, but that receives contributions and makes expenditures for the purpose of supporting or opposing a candidate for a judicial office, a local government office, or a local ballot measure, is exempt from filing reports under section 67-6607, *Idaho Code*, unless and until such time as the political committee receives contributions or expends funds in the amount of one thousand dollars (\$1,000) or more. Within seven (7) calendar days of the one thousand dollar (\$1,000) threshold being met, the political treasurer for the political committee shall file a cumulative report covering the period from the first contribution or expenditure to the current date and shall file all subsequent reports according to section 67-6607, *Idaho Code*, regardless of amounts received or expended.

History: [S.L. 2019, ch. 288; am. 2020, ch. 70]

67-6609. STATEMENT AS TO NO CONTRIBUTION OR EXPENDITURE. If no contribution is received or expenditure made by or on behalf of a candidate or political committee during a period described in section 67-6607, *Idaho Code*, the political treasurer for the candidate or political committee shall file with the secretary of state, at the time required by such section of this act for the period, a statement to that effect.

History: [Init. Measure 1974, No. 1; am. 2019, ch. 288]

67-6610. CONTRIBUTION IN EXCESS OF FIFTY DOLLARS. (a) Any person who contributes more than fifty dollars (\$50.00) (including one or more smaller contributions which aggregate more than fifty dollars (\$50.00) in any one calendar year) to a candidate or political committee shall accompany the contribution with a statement of his full name and complete address.

(b) If a political treasurer is offered or receives a payment or contribution of more than fifty dollars (\$50.00), or which together with prior contributions from the same person during that calendar year exceeds fifty dollars (\$50.00), and there is no statement of the full name and complete address of the person making the contribution, the contribution shall be returned to the contributor if his identity can be ascertained. If the contributor's identity cannot be ascertained, the contribution shall be transmitted immediately by the political treasurer who received it to the state controller for deposit in the public school fund.

History: [Init. Measure 1974, No. 1; am. 1994, ch. 180]

67-6610A. LIMITATIONS ON CONTRIBUTIONS. (1) Except as provided in subsection (2) of this section, aggregate contributions for a primary election or a general election made by a corporation, political committee, other recognized legal entity or an individual shall be subject to the limitations of this subsection. This subsection shall not apply to a candidate contributing or loaning money to his own campaign account or to a candidate for a state legislative office who, in terminating his campaign account, transfers the balance of funds to that candidate's new campaign account for a different state legislative

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office. In such case, any contributions received in the closed account, combined with any contributions received in the new account, shall count against the contribution limits provided in this subsection when received from the same contributor for the same election date.

(a) Aggregate contributions by a corporation, political committee, other recognized legal entity, or an individual to a candidate for the state legislature, judicial office, or local government office, and political committees organized on the candidate's behalf, shall be limited to an amount not to exceed one thousand dollars (\$1,000) for the primary election and an amount not to exceed one thousand dollars (\$1,000) for the general election.

(b) Aggregate contributions for a primary election or a general election by a corporation, political committee, other recognized legal entity or an individual to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed five thousand dollars (\$5,000) for the primary election and an amount not to exceed five thousand dollars (\$5,000) for the general election.

(2) Aggregate contributions for a primary election or for a general election made by a county central committee or by the state central committee of the political parties qualified under section 34-501, *Idaho Code*, to a candidate for the state legislature and political committees organized on the candidate's behalf shall be limited to an amount not to exceed two thousand dollars (\$2,000) for the primary election and an amount not to exceed two thousand dollars (\$2,000) for the general election. Aggregate contributions for the primary election or the general election by the state central committee of the political parties qualified under section 34-501, *Idaho Code*, to a candidate for statewide office and political committees organized on the candidate's behalf shall be limited to an amount not to exceed ten thousand dollars (\$10,000) for the primary election and an amount not to exceed ten thousand dollars (\$10,000) for the general election.

(3) For purposes of this section, "**statewide office**" shall mean an office in state government that shall appear on the primary or general election ballot throughout the state.

(4) Recall and special elections, for purposes of this section, shall be treated the same as general elections for contribution limits.

(5) Contributions other than money or its equivalent are deemed to have a monetary value equivalent to the fair market value of the contribution. Services or property or rights furnished at less than their fair market value for the purpose of assisting any candidate or political committee are deemed a contribution. A contribution of this kind shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the contributor. Contributions shall not include the personal services of volunteers.

(6) For the purposes of contribution limits, the following apply:

(a) A contribution by a political committee with funds that have all been contributed by one (1) person who exercises exclusive control over the distribution of the funds of the political committee is a contribution by the controlling person.

(b) All contributions made by a person or political committee whose contribution or expenditure activity is financed, maintained or controlled by a trade association, labor union or collective bargaining organization shall be considered a contribution from such trade association, labor union or collective bargaining organization.

(c) Two (2) or more entities are treated as a single entity if the entities:

(i) Share the majority of members on their board of directors;

(ii) Share two (2) or more officers;

(iii) Are owned or controlled by the same majority shareholder or shareholders or persons;

(iv) Are in a parent-subsidiary relationship; or

(v) Have bylaws so stating.

(7) The provisions of this section are hereby declared to be severable and if any provision of this section or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this section.

History: [S.L. 1997, ch. 393; am. 2004, ch. 19; am. 2006, ch. 23; am. 2012, ch. 162; am. 2019, ch. 288; am. 2021, ch. 209]

67-6610B. RETIRING DEBT. (1) If a political committee organized on behalf of a candidate has unpaid debt at the end of the reporting periods specified in section 67-6607, *Idaho Code*, then the committee may accept additional contributions to retire such unpaid debt, provided the contributions do not exceed the applicable contribution limits prescribed.

(2) For the purposes of this section, "**unpaid debt**" means any unpaid monetary obligation incurred by the political committee as listed on the reports filed through the postelection report period minus any cash balance reported on the postelection report. Outstanding loans are considered a type of "**unpaid debt.**"

History: [S.L. 2004, ch. 277; am. 2019, ch. 288]

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67-6610C. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES. (1) Permitted uses. A contribution accepted by a candidate may be used by the candidate:

- (a) For expenditures in connection with the campaign for public office of the candidate;
- (b) For ordinary and necessary expenses incurred in connection with duties of the individual as a holder of public office;
- (c) For contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986;
- (d) For transfers, without limitation, to a national, state or local committee of a political party;
- (e) For donations to state and local candidates subject to the provisions of state law; or
- (f) For any other lawful purpose unless prohibited by subsection (2) of this section.

(2) Prohibited use.

(a) In general. A contribution shall not be converted by any person to personal use.

(b) Conversion. For the purposes of subsection (2) (a) of this section, a contribution shall be considered to be converted to personal use if the contribution is used to fulfill any commitment, obligation or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of public office, including:

- (i) A home mortgage, rent or utility payment;
- (ii) A clothing purchase except for items of de minimis value such as campaign shirts or hats;
- (iii) A noncampaign or nonofficeholder related automobile expense;
- (iv) A country club membership;
- (v) A vacation or other noncampaign-related trip;
- (vi) A tuition payment;
- (vii) Admission to a sporting event, concert, theater or other form of entertainment not associated with an election campaign;
- (viii) Dues, fees and other payments to a health club or recreational facility; and
- (ix) Meals, groceries or other food expense, except for tickets to meals that the candidate attends solely for the purpose of enhancing the candidacy of another person or meal expenses which are incurred as part of a campaign activity or as part of a function that is related to the candidate's or officeholder's responsibilities.

History: [S.L. 2006, ch. 36]

67-6610D. FOREIGN CONTRIBUTIONS, FOREIGN INDEPENDENT EXPENDITURES, AND FOREIGN ELECTIONEERING COMMUNICATIONS PROHIBITED. (1) A foreign national shall not make a contribution, directly or indirectly, to any candidate, political committee, or measure or make electioneering communications or independent expenditures.

(2) As used in this section, "foreign national" means:

- (a) An individual who is not a citizen of the United States and is not lawfully admitted for permanent residence;
- (b) A government or subdivision of a foreign country;
- (c) A foreign political party; or
- (d) Any entity, such as a partnership, association, corporation, organization, union, or other combination of persons, that is organized under the laws of or has its principal place of business in a foreign country.

(3) A violation of the provisions of this section shall be prosecuted and punished as provided in section 67-6625(2) through (5), *Idaho Code*. Provided, however, any person who knowingly and willfully violates the provisions of this section is guilty of a felony when:

- (a) The aggregate amount of contributions, independent expenditures, or cost of electioneering communications made in violation of this section exceeds one thousand dollars (\$1,000) in a consecutive twelve (12) month period; or
- (b) The person pleads guilty to or is found guilty of a knowing and willful violation of the provisions of this section for a second time within ten (10) years, notwithstanding the form of the judgment or withheld judgment.

(4) If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not affected.

History: [S.L. 2021, ch. 237]

67-6611. INDEPENDENT EXPENDITURES. (1) Each person who makes independent expenditures in an aggregate amount exceeding one hundred dollars (\$100) in support of or in opposition to any one (1) candidate, political committee or measure, shall file a statement of the expenditure with the secretary of state.

(2) Statements shall be filed with the secretary of state, not less than seven (7) days prior to the primary and general election and thirty (30) days after the primary and general election.

(3) The statement shall contain the following information:

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(a) The name and address of any person to whom an expenditure in excess of fifty dollars (\$50.00) has been made by any such person in support of or in opposition to any such candidate or measure during the reporting period, together with the amount, date and purpose of each such expenditure, including the identity of the candidate or measure, and whether the expenditure was made either in support of or in opposition to such candidate or measure; and

(b) The total sum of all expenditures made in support of or in opposition to any such candidate or measure.

(4) In addition to the requirements set forth in subsections (1) and (2) of this section, each person who makes independent expenditures in an aggregate amount of one thousand dollars (\$1,000) or more after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election, shall file a written statement of the expenditure with the secretary of state not more than forty-eight (48) hours from the time of such expenditure. The statement shall include the information required in subsection (3) of this section.

History: [S.L. 1997, ch. 393; am. 1999, ch. 29; am. 2003, ch. 20; am. 2004, ch. 148; am. 2021, ch. 150]

67-6612. DISCLOSURE OF PAYMENTS MADE TO SIGNATURE GATHERERS. (1) Any person who pays or provides other valuable consideration in an aggregate amount of one hundred dollars (\$100) or more to another person or persons, in exchange for their actions or intended actions of gathering signatures on a ballot initiative petition or referendum, shall file a statement of the expenditure with the secretary of state.

(2) The provisions of this section shall apply beginning on the date that the ballot initiative or referendum petitioners receive from the secretary of state the official ballot title for which the person is paying to have signatures gathered and shall continue for as long as the filer makes payments to a signature gatherer or gatherers.

(3) Statements shall be filed on or before the twentieth day of the month following the month during which the payments to the signature gatherers were made.

(4) The statement shall contain the following information:

(a) The name and address of any signature gatherer to whom a payment in excess of fifty dollars (\$50.00) has been made during the reported month; and

(b) The total sum of all payments made to signature gatherers in the aggregate during the reported month.

(5) In addition to the statements filed under subsection (3) of this section, any person who pays a signature gatherer or gatherers the aggregate amount of one thousand dollars (\$1,000) or more during the fourteen (14) days prior to the election shall file a notice of the expenditures with the secretary of state not more than forty-eight (48) hours from the time of the expenditure. The notice shall include the information required under subsection (4) of this section.

History: [S.L. 2020, ch. 336]

67-6613. COMMERCIAL REPORTING. Each newspaper, periodical, broadcasting station, direct mailing company, printer and advertising agency which accepts expenditures from a political treasurer shall keep a current record (available to the public) listing the amounts paid and the obligations incurred by each candidate, political committee or political treasurer to such newspaper, periodical, broadcasting station, direct mailing company, printer or advertising agency.

History: [Init. Measure 1974, No. 1]

67-6614. IDENTIFICATION OF SOURCE OF CONTRIBUTIONS AND EXPENDITURES. No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one (1) person through an agent, relative or other person in such a manner as to conceal the identity of the source of the contribution.

History: [Init. Measure 1974, No. 1]

67-6614A. PUBLICATION OR DISTRIBUTION OF POLITICAL STATEMENTS. Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election, approval or defeat of a candidate, measure or person standing for election to the position of precinct committeeman through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public political advertising, the person responsible for such communication shall be clearly indicated on such communication.

History: [S.L. 1977, ch. 180; am. 1992, ch. 196.; am. 2016, ch. 304]

67-6615. INSPECTION BY SECRETARY OF STATE AND COUNTY CLERKS. (1) It is the intent of the legislature to consolidate filings for all offices and measures in a central online database established by the secretary of state.

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(2) The secretary of state shall inspect each statement filed pursuant to this chapter for statewide, legislative, and judicial district offices or measures, and the county clerk shall inspect each statement filed for all local government offices or measures for which the county is the home county, as defined in section 34-1401, *Idaho Code*, within two (2) days after the date it is filed. He shall notify a person required to file a statement under this chapter immediately if:

- (a) It appears that the person has failed to file a statement as required by law or that a statement filed by the person does not conform to law; or
- (b) A written complaint is filed with the secretary of state or county clerk by any registered voter alleging that a statement filed with the secretary of state does not conform to law or to the truth or that a person has failed to file a statement required by law.

History: [Init. Measure 1974, No. 1; am. 2019, ch. 288]

67-6616. EXAMINATION OF STATEMENTS. Within three (3) months after the date of each election, the secretary of state shall examine such statement filed pursuant to this chapter for statewide, legislative, and judicial district offices or measures, and the county clerk shall inspect each statement filed for all local government offices or measures for which the county is the home county, as defined in section 34-1401, *Idaho Code*; and referring to the election, determine whether the statement conforms to law. Such examinations shall include a comparison of reports and statements received by the secretary of state pursuant to sections 67-6607 through 67-6609, 67-6611, and 67-6614, *Idaho Code*. The secretary of state or county clerk may require any person to answer in writing and under oath or affirmation any question within the knowledge of that person concerning the source of any contribution.

History: [Init. Measure 1974, No. 1; am. 2019, ch. 288]

67-6617. REGISTRATION OF LOBBYISTS. (1) Before doing any lobbying, or within thirty (30) days after being employed, designated, or contracted as a lobbyist, whichever occurs first, a lobbyist shall register by filing with the secretary of state a lobbyist registration statement, in such detail as the secretary of state shall prescribe, accompanied by payment of a registration fee of ten dollars (\$10.00) to be deposited by the secretary of state in the state treasury. The lobbyist registration statement shall include:

- (a) The lobbyist's name, permanent business address, and any temporary residential and business address in Ada county during the legislative session;
- (b) The name, address, and notification e-mail address to be used under section 67-6619(2), *Idaho Code*, for the employer, client, or designated contact, as well as the general nature of the occupation or business of the lobbyist's employer or client, and the duration of his employment or contract;
- (c) In the case of a designated lobbyist for a corporate entity as described under section 67-6618(7), *Idaho Code*, the name and notification e-mail address of the corporate entity that is already registered as a lobbyist and for whom the designated lobbyist will be reporting all corporate and employee activities;
- (d) Whether the person from whom he receives compensation employs him solely as a lobbyist or whether he is a regular employee performing services for his employer which include but are not limited to lobbying of legislation;
- (e) The general subject or subjects of the lobbyist's legislative interest; and
- (f) The name and address of the person who will have custody of the accounts, bills, receipts, books, papers, and documents required to be kept under this act.

(2) Any lobbyist who receives or is to receive compensation from more than one (1) person for his services as a lobbyist shall file a separate notice of representation, accompanied by the fee of ten dollars (\$10.00) for each separate notice of representation, with respect to each such person; except that where a lobbyist whose fee for acting as such in respect to the same legislation or type of legislation is, or is to be, paid or contributed by more than one (1) person, then such lobbyist may file a single statement, in which he shall detail the name, business address and general occupation of each person so paying or contributing.

(3) Whenever a change, modification, or termination of the lobbyist's employment or contract occurs, the lobbyist shall, within one (1) week of such change, modification or termination, furnish full information regarding the same by filing with the secretary of state an amended registration statement.

(4) Each lobbyist who has registered shall file a new registration statement, revised as appropriate, on or before each January 10, and failure to do so shall terminate his registration.

History: [Init. Measure 1974, No. 1; am. 1976, ch. 229; am. 1999, ch. 176; am. 2019, ch. 290]

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67-6618. EXEMPTION FROM REGISTRATION. The following persons and activities shall be exempt from registration and reporting under sections 67-6617 and 67-6619, *Idaho Code*:

(1) Persons who limit their lobbying activities to appearances before public sessions of committees of the legislature or to appearances or participation in public meetings, public hearings or public proceedings held or initiated by executive officials or their employees.

(2) Persons who are employees of an entity engaged in the business of publishing, broadcasting or televising, while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(3) Persons who do not receive any compensation for lobbying and persons whose compensation for lobbying does not exceed two hundred fifty dollars (\$250) in the aggregate during any calendar quarter, including persons who lobby on behalf of their employer or employers, and the lobbying activity represents less than the equivalent of two hundred fifty dollars (\$250) of the employee's time per calendar year quarter, based on an hourly proration of said employee's compensation.

(4) Members of a trade association who are acting on behalf of and at the request of the trade association, if such association has registered as a lobbyist pursuant to this chapter, and if any expenditures are reported by the association pursuant to section 67-6619, *Idaho Code*.

(5) Elected state officers and state executive officers appointed by the governor subject to confirmation by the senate; elected officials of political subdivisions of the state of Idaho, acting in their official capacity.

(6) A person who represents a bona fide church (of which he is a member) solely for the purpose of protecting the constitutional right to the free exercise of religion.

(7)(a) Employees of a corporate entity, if such corporate entity:

(i) Has registered as a lobbyist pursuant to this chapter;

(ii) Has appointed one (1) or more of its employees or contractors as its official designated lobbyist; and

(iii) The person so appointed by the corporate entity has completed the designated lobbyist registration.

(b) The corporate entity shall, through its designated lobbyist, fully and accurately report all expenditures made by employees who are exempt hereunder, in the manner and at the times required by section 67-6618, *Idaho Code*, and, in addition thereto, shall report the names of all employees who make expenditures in the aggregate sum of fifty dollars (\$50.00) or more during any calendar year on behalf of the corporate entity's lobbying activities.

History: [Init. Measure 1974, No. 1; am. 1976, ch. 362; am. 1998, ch. 242; am. 2006, ch. 106; am. 2019, ch. 290]

67-6619. REPORTING BY LOBBYISTS. (1) Any lobbyist registered under section 67-6617, *Idaho Code*, shall file with the secretary of state an annual report of his lobbying activities signed by the lobbyist. The reports shall be made in the form and manner prescribed by the secretary of state and shall be filed on January 31 of each year. In addition to the annual report, while the legislature is in session, every registered lobbyist shall file interim monthly periodic reports for each month or portion thereof that the legislature is in session, which shall be filed within fifteen (15) days of the first day of the month for the activities of the month just past, provided however, that any lobbyist covered under this chapter whose lobbying activities are confined only to executive officials shall be required to file interim periodic reports semiannually on January 31 and July 31.

(2) Once a lobbyist has filed an annual or semiannual report, each person identified as an employer, client, or designated contact on the report will be electronically notified that the report has been filed by the lobbyist, using the contact information provided for the employer, client, or designated contact upon registration.

(3) Each annual, semiannual and monthly periodic report shall contain:

(a) The total of all expenditures made or incurred on behalf of such lobbyist by the lobbyist's employer, employers, client, or clients, not including payments made directly to the lobbyist, during the period covered by the report. The totals shall be segregated according to financial category including, but not limited to: entertainment, food and refreshment, honoraria, travel, lodging, advertising and other like expenditures. Reimbursed personal living and travel expenses of a lobbyist made or incurred directly or indirectly for any lobbying purpose need not be reported.

(b) The name of any legislator or executive official to whom or for whose benefit on any one (1) occasion an expenditure in excess of one hundred dollars (\$100) per person for the purpose of lobbying, is made or incurred and the date, name of payee, purpose and amount of such expenditure. Expenditures for the benefit of the members of the household of a legislator or executive official shall also be itemized if such expenditure exceeds the amount listed in this subsection.

(c) In the case of a lobbyist employed by or contracted with more than one (1) employer or client, the proportionate amount of such expenditures in each category made or incurred on behalf of each of his employers or clients.

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(d) The subject matter of proposed legislation and the number of each senate or house bill, resolution, memorial or other legislative activity or any rule, ratemaking decision, procurement, contract, bid or bid process, financial services agreement or bond in which the lobbyist has been engaged in supporting or opposing during the reporting period; provided that in the case of appropriations bills, the lobbyist shall enumerate the specific section or sections which he supported or opposed.

(e) The itemization threshold in subsection (3)(b) of this section shall be adjusted biennially by directive of the secretary of state, using consumer price index data compiled by the United States department of labor.

(4) Reports required to be filed under the provisions of this section shall be filed online with the secretary of state, except as provided in section 67-6623, *Idaho Code*, by no later than midnight on the date the filing is due.

History: [S.L. 2008, ch. 306; am. 2010, ch. 22; am. 2019, ch. 290]

67-6619A. REPORTS BY STATE ENTITIES. Any office or agency of state government or a state funded educational institution that offers gifts of any kind through interaction with the legislative or executive department of state government shall file the same reports lobbyists are required to file pursuant to section 67-6619, *Idaho Code*, with the exception of reporting under section 67-6619(3)(d), *Idaho Code*, unless the office, agency or state funded educational institution is otherwise represented by a lobbyist who files all necessary reports and documentation as provided by law.

History: [S.L. 2016, ch. 345; am. 2019, ch. 290]

67-6620. EMPLOYMENT OF UNREGISTERED PERSONS. It shall be a violation of this act for any person to employ for pay or any consideration, or pay or agree to pay any compensation to, a person to lobby who is not registered or exempt from registration under this act unless such person registers as a lobbyist as provided by this act as soon as practicable after such employment or payment, or agreement to pay, compensation.

History: [Init. Measure 1974, No. 1]

67-6621. DUTIES OF LOBBYISTS. A person required to register as a lobbyist under this chapter shall also have the following obligations, the violation of which shall constitute cause for revocation of his registration, and may subject such person, and such person's employer or client, if such employer or client aids, abets, ratifies or confirms any such act, to other civil liabilities, as provided by this chapter:

(1) Such persons shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to substantiate the financial reports required to be made under this chapter for a period of at least three (3) years from the date of the filing of the statement containing such items, which accounts, bills, receipts, books, papers and documents shall be made available for inspection by the secretary of state at any reasonable time during such three (3) year period; provided, however, that if a lobbyist is required under the terms of his employment contract to turn any records over to his employer or client, responsibility for the preservation of such records under this subsection shall rest with such employer or client.

(2) In addition, a person required to register as a lobbyist shall not:

(a) Engage in any activity as a lobbyist before registering as such;

(b) Knowingly deceive or attempt to deceive any legislator to any fact pertaining to any pending or proposed legislation;

(c) Cause or influence the introduction of any bill or amendment thereto for the purpose of thereafter being employed to secure its defeat;

(d) Knowingly represent an interest adverse to any of his employers or clients without first obtaining such employers' or clients' consent thereto after full disclosure to such employers or clients of such adverse interest;

(e) Exercise any economic reprisal, extortion, or unlawful retaliation upon any legislator by reason of such legislator's position with respect to, or his vote upon, any pending or proposed legislation;

(f) Accept any employment as a lobbyist for a compensation dependent in any manner upon the passage or defeat of any proposed or pending legislation or upon any other contingency connected with the action of the legislature or of either branch thereof or of any committee thereof. This contingent fee prohibition shall also apply to lobbying activities that pertain to communications with executive officials as described in section 67-6602(9), *Idaho Code*.

History: [Init. Measure 1974, No. 1; am. 2015, ch. 244; am. 2015, ch. 284; am. 2017, ch. 142; am. 2018, ch. 169; am. 2019, ch. 288; am. 2019, ch. 290; am. 2020, ch. 82]

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67-6622. DOCKET—CONTENTS—REPORTS TO LEGISLATURE—SUBJECTS OF LEGISLATION—WRITTEN AUTHORIZATION. The Secretary of State shall prepare and keep a docket in which shall be entered the name and business address of each lobbyist and the name and business address of his employer or employers, and the subject or subjects of legislation (by bill number, if available) to which the employment relates, which information shall also be indexed by names of employers of lobbyists. Such docket shall be a public record and open to the inspection of any citizen upon demand at any time during the regular business hours of the office of the Secretary of State. Beginning with the first week following the beginning of any regular or special session of the legislature and on every Wednesday thereafter for the duration of such session, the Secretary of State shall from his records report to each house of the legislature the names of lobbyists registered under this act not previously reported, the names of the persons whom they represent as such lobbyist, and subject of legislation (by bill number, if available) in which they are interested.

History: [Init. Measure 1974, No. 1]

67-6623. DUTIES OF SECRETARY OF STATE AND COUNTY CLERKS. (1) The secretary of state and each county clerk is charged with enforcement of the provisions of this chapter.

(2) In addition to duties otherwise prescribed in this section, it shall be the duty of the secretary of state:

(a) To prescribe forms for statements and other information required to be filed by this act, and to furnish such forms and instruction manual to persons required to file such statements and information;

(b) To make statements and other information filed with him available for public inspection and copying during regular office hours, and to make copying facilities available at a charge not to exceed actual cost;

(c) To preserve such statements and other information for a period of four (4) years from date of receipt;

(d) With respect to statewide, legislative, and judicial district offices and measures, to make investigations of statements filed under the provisions of this chapter, and with respect to alleged failures to file any statement required under the provisions of this chapter, and upon complaint by any person with respect to alleged violations of any part of this chapter;

(e) To report suspected violations of law to the appropriate law enforcement authorities;

(f) To prescribe and publish rules in accordance with the provisions of [chapter 52](#), [title 67](#), *Idaho Code*, and to take such other actions as may be appropriate to carry out the provisions of this chapter;

(g) To require and prescribe methods for the filing of reports in an online database established by the secretary of state's office for the filing and publication of all reports required pursuant to this chapter. The online database shall accommodate the filings of all state and local government candidates, political committees, measures, and lobbyists. The online database shall be accessible on the secretary of state's website and be searchable by the public by address, candidate, committee, contribution, contributor, date, expense, office, party, purpose, and any other content deemed appropriate by the secretary of state. The secretary of state may, on an individual basis, grant a hardship waiver and accept a report required by this chapter in another format specified by the secretary of state, which will be entered into the online database by the secretary of state within three (3) days of filing.

(3) It shall be the duty of the county clerk with respect to all local government offices or measures for which the county is the home county, as defined in section [34-1401](#), *Idaho Code*, to make investigations of statements required to be filed under this chapter of alleged failures to file any required statement and of any complaint filed by any person of an alleged violation of any part of this chapter with respect to local government offices or measures in the county. The county clerk shall report any suspected violations of this chapter pertaining to a local government office or measure to the county prosecutor.

History: [Init. Measure 1974, No. 1; am. 1977, ch. 180; am. 2010, ch. 22; am. 2017, ch. 142; am. 2018, ch. 2; am. 2019, ch. 288]

67-6624. STATEMENTS TO BE CERTIFIED. All statements required to be filed with the secretary of state under this act shall be signed and certified as true and correct by the person required to file the same. Electronic signatures and certifications shall be governed by the uniform electronic transactions act, [chapter 50](#), [title 28](#), *Idaho Code*.

History: [Init. Measure 1974, No. 1; am. 2017, ch. 142]

67-6625. VIOLATIONS—CIVIL FINE—MISDEMEANOR PENALTY—PROSECUTION—LIMITATION—VENUE.

(1) Any person who violates the provisions of sections [67-6603](#), [67-6604](#), [67-6606](#) through [67-6614A](#), [67-6617](#), [67-6619](#), [67-6620](#), [67-6621\(1\)](#), [67-6624](#), [67-6627](#) or [67-6628](#), *Idaho Code*, shall be liable for a civil fine not to exceed two hundred fifty dollars (\$250) if an individual, and not more than two thousand five hundred dollars (\$2,500) if a person other than an individual. The burden of proof for such civil liability shall be met by showing a preponderance of the evidence.

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(2) Any person who violates section 67-6605 or 67-6621(2), *Idaho Code*, and any person who knowingly and willfully violates sections 67-6603 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(1), 67-6624, 67-6627 or 67-6628, *Idaho Code*, is guilty of a misdemeanor and, upon conviction, in addition to the fines set forth in subsection (1) of this section, may be imprisoned for not more than six (6) months or be both fined and imprisoned.

(3) The attorney general or the appropriate prosecuting attorney may prosecute any violations of this chapter.

(4) Prosecution for a civil or misdemeanor violation of this chapter must be commenced within two (2) years after the date on which the violation occurred. Prosecution for a felony violation of this chapter must be commenced pursuant to the provisions of section 19-402, *Idaho Code*.

(5) Venue for prosecution under the provisions of this chapter shall be in the county of residence of the defendant if the defendant is a resident of the state of Idaho, otherwise venue shall be in Ada county.

History: [Init. Measure 1974, No. 1; am. 1976, ch. 227; am. 1977, ch. 169; am. 1978, ch. 43; am. 1997, ch. 393; am. 2001, ch. 106; am. 2005, ch. 254; am. 2017, ch. 142; am. 2021, ch. 237]

67-6625A. LATE FILING OF STATEMENT OR REPORT — FEES. (1) If any person fails to file a report or statement required under this chapter on or before a specified date, he shall be liable to the secretary of state for deposit in the general fund in the amount of fifty dollars (\$50.00) per day beginning forty-eight (48) hours after the deadline until the statement or report is filed. The secretary of state or the county clerk shall notify the person and his treasurer, if any, that a fine has been assessed and will continue to accrue until the report or statement has been filed. The notification shall be made by telephone or electronic means within twenty-four (24) hours of the missed filing deadline.

(2) The remedy provided in this section is cumulative and does not exclude any other remedy or penalty prescribed in section 67-6625, *Idaho Code*.

History: [S.L. 1977, ch. 169; am. 1993, ch. 203; am. 2019, ch. 288]

67-6626. INJUNCTIONS. The district courts of this state shall have original jurisdiction to issue injunctions to enforce the provisions of this chapter upon application by any citizen of this state, by the secretary of state or by the county clerk. The court may in its discretion require the citizen plaintiff to file a written complaint with the secretary of state or county clerk prior to seeking injunctive relief. A successful plaintiff is entitled to be reimbursed for reasonable costs of litigation, including reasonable attorney's fees, by the person or persons named defendant in said injunctive action. A successful defendant is entitled to be reimbursed for reasonable costs of litigation, including reasonable attorney's fees, if the court determines that plaintiff's action was without substantial merit.

History: [Init. Measure 1974, No. 1; am. 2019, ch. 288]

67-6627. PERSUASIVE POLL CONCERNING CANDIDATE MUST IDENTIFY PERSON OR ENTITY PAYING FOR POLL. (1) If a person, candidate, political party or political committee requests or compensates a person to:

- (a) Conduct or cause to be conducted a persuasive poll by telephone concerning a candidate; or
 - (b) Produce automated or computerized messages by telephone to conduct a persuasive poll concerning a candidate.
- The person conducting the poll shall, at the end of the poll, disclose the name and telephone number of the person, candidate, political party or political committee that requested or compensated the person for the poll.

(2) As used in this section, "**persuasive poll**" means the canvassing of persons, by means other than an established method of scientific sampling, by asking questions or other information concerning a candidate which is designed to provide information that is designed to advocate the election, approval or defeat of a candidate or measure. The term does not include a poll that is conducted only to measure the public's opinion about or reaction to an issue, fact or theme.

(3) A violation of the provisions of this section shall be punishable as provided in section 67-6625, *Idaho Code*.

History: [S.L. 2000, ch. 153; am. 2001, ch. 106; am. and redesig. 2017, ch. 142]

67-6628. ELECTIONEERING COMMUNICATIONS—STATEMENTS.

(1) Any person who conducts or transmits any electioneering communication shall be required to file a statement on a form provided by the secretary of state. Contents of the statement shall include the amount spent on such communications, the name and address of the person, and the names and addresses of any persons who contribute fifty dollars (\$50.00) or more to any person described in this section.

(2) Any person that incurs costs in excess of one hundred dollars (\$100) when making an electioneering communication shall file a statement in accordance with the time limits established by section 67-6611(2), *Idaho Code*.

(3) In addition to the requirements of subsection (2) of this section, any person that incurs costs of one thousand dollars (\$1,000) or more when making an electioneering communication shall file a statement as provided in subsection (1) of this section within forty-eight (48) hours of incurring the costs for such communication.

History: [S.L. 2005, ch. 254; am. and redesig. 2017, ch. 142]

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67-6629. SEVERABILITY. If any provisions of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

History: [Init. Measure 1974, No. 1; am. and redesign. 2017, ch. 142]

67-6630. CONSTRUCTION. The provisions of this act are to be liberally construed to effectuate the policies and purposes of this act. In the event of conflict between the provisions of this act and any other act, the provisions of this act shall govern.

History: [Init. Measure 1974, No. 1; am. and redesign. 2017, ch. 142]

Title 74
Transparent And Ethical Government

Title 74: Transparent And Ethical Government

74-601. SHORT TITLE. This act shall be known and may be cited as the “**Public Integrity in Elections Act.**”

History: [S.L. 2018, ch. 260]

74-602. LEGISLATIVE INTENT. The legislature finds that it is against the public policy of the state of Idaho for public funds, resources or property to be used to advocate for or against a candidate or ballot measure.

History: [S.L. 2018, ch. 260]

74-603. DEFINITIONS. As used in this chapter:

(1)(a) “**Advocate**” means to campaign for or against a candidate or the outcome of a ballot measure.

(b) “**Advocate**” does not mean providing factual information about a ballot measure and the public entity’s reason for the ballot measure stated in a factually neutral manner. Factual information includes but is not limited to the cost of indebtedness, intended purpose, condition of property to be addressed, date and location of election, qualifications of candidates, or other applicable information necessary to provide transparency to electors.

(2) “**Ballot measure**” means constitutional amendments, bond measures, or levy measures.

(3) “**Candidate**” means and includes every person for whom it is contemplated or desired that votes be cast at any political convention, primary, general, local, or special election and who either tacitly or expressly consents to be so considered.

(4) “**Expenditure**” means:

(a) A purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value; or

(b) A legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value.

(5) “**Property or resources**” means goods, services, equipment, computer software and hardware, college extra credit, other items of intangible property, or facilities provided to or for the benefit of a candidate, a candidate’s personal campaign committee, a political issues committee for political purposes, or advocacy for or against a ballot measure or candidate. Public property or resources that are available to the general public, at such times and in such manner as they are available to the general public, are exempt from this exclusion and may be used by a political party as defined in section 34-109, *Idaho Code*, provided that all political parties are given equal and fair access.

(6) “**Public entity**” means the state, each state agency, county, municipality, school district, state institution of higher learning, or other taxing district or public corporation empowered to submit ballot measures to its electors.

(7) “**Public funds**” means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(8) “**Public official**” means an elected or appointed member of a public entity who has:

(a) Authority to make or determine public policy;

(b) Supervisory authority over the personnel and affairs of a public entity; or

(c) Authority to approve the expenditure of funds for the public entity.

(9) “**State agency**” means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, or other administrative unit of the state.

History: [S.L. 2018, ch. 260; am. 2021, ch. 291; am. 2022, ch. 179]

74-604. PUBLIC FUNDS PROHIBITED. Unless specifically required by law, and except as provided in this chapter:

(1) Neither a public entity nor its employees shall make, nor shall a public official make or authorize, an expenditure from public funds to advocate for or against a candidate or a ballot measure.

(2) Neither a public entity nor any of its employees shall use, nor shall a public official authorize or use, public property or resources to advocate for or against a candidate or a ballot measure.

(3) Neither a public entity nor any of its employees shall provide or offer to provide, nor shall a public official provide or offer to provide, college extra credit to a student of a state institution of higher learning either:

(a) To encourage a student to vote or not vote; or

(b) To influence a student’s vote for or against a candidate or ballot measure.

History: [S.L. 2018, ch. 260; am. 2021, ch. 291]

TRANSPARENT AND ETHICAL GOVERNMENT

74-605. EXCLUSIONS. Nothing in this chapter shall prohibit:

(1) A public official or employee from speaking, campaigning, contributing personal money or otherwise exercising the public official's or employee's individual first amendment rights for political purposes, provided no public funds are used for expenditures supporting the public official or employee in such activity;

(2) A public entity, public official or employee from the neutral encouragement of voters to vote;

(3) An elected official or employee from personally campaigning or advocating for or against a ballot measure, provided no public funds, property or resources are used for supporting the elected official or employee in such activity;

(4) A public entity from preparing and distributing to electors an objective statement explaining the purpose and effect of the ballot measure, including in the case of bond or levy elections the cost per taxpayer or taxable value, or similar information based on reasonable estimates prepared in good faith;

(5) The formulation and publication of statements regarding proposed amendments to the state constitution, as authorized by section 67-453, *Idaho Code*;

(6) The publication of information described in sections 34-913, 34-914, and 34-1406, *Idaho Code*, as applicable, or other provisions of law requiring notices and disclosures in connection with elections and ballot measures; or

(7) A balanced student classroom discussion or debate of current or pending election issues.

History: [S.L. 2018, ch. 260; am. 2021, ch. 288]

74-606. VIOLATIONS — REMEDIES. (1) Any public official or employee who conducts or participates in an activity that violates the provisions of this chapter shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250).

(2) Any public official or employee who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(3) Any public official or employee who knowingly violates any provision of this chapter and who has previously admitted to committing or has been previously determined to have committed a violation pursuant to subsection (2) of this section within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500).

(4) The attorney general shall have the duty to enforce this chapter in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this chapter in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this chapter, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose, as provided in section 31-2603, *Idaho Code*.

History: [S.L. 2018, ch. 260]

Uniform District Election Law

UNIFORM DISTRICT ELECTION LAW
AUDITORIUM DISTRICT

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](#), [34-1406](#), [67-4907](#), [67-4911](#), *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 the eighth Friday 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*)

UNIFORM DISTRICT ELECTION LAW
AUDITORIUM DISTRICT

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. Campaign finance filings are to be made through an online campaign finance reporting system maintained by the Secretary of State, with the County Clerk and County Prosecuting Attorney responsible for enforcement. (67-6608, 67-6615, 67-6623, and 67-6625, *Idaho Code*)

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

UNIFORM DISTRICT ELECTION LAW
AUDITORIUM DISTRICT

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; am. 1974, ch. 139; am. 1978, ch. 276; am. 1995, ch. 118; am. 1998, ch. 21; am. 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.

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; am. 1963, ch. 95; am. 1978, ch. 20 & 276; am. 1998, ch. 21; am. 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;

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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 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.

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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. 1959, ch. 137; am. 1987, ch. 70; am. 1995, ch. 118; am. 1998, ch. 21; am. 2001, ch. 258; am. 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; am. 1987, ch. 70; am. 1992, ch. 15; am. 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 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

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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; am. 1974, ch. 139; am. 1995, ch. 118; am. 1998, ch. 21; am. 2001, ch. 258; am. 2009, ch. 341; am. 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; am. 1974, ch. 139; am. 1987, ch. 70; am. 1995, ch. 118; am. 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; am. 1987, ch. 70; am. 1995, ch. 118; am. 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; am. 1987, ch. 118; am. 2009, ch. 341]

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; am. 1978, ch. 276; am. 1987, ch. 70]

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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; am. 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 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; am. 1987, ch. 70; am. 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.

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(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 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; am. 2009, ch. 341]

67-4931. [REPEALED - AM. 2019, ch. 288].

UNIFORM DISTRICT ELECTION LAW
CEMETERY DISTRICT

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. However, a cemetery district formed by the consolidation of two or more cemetery districts may choose to operate with five subdistricts. 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](#), [34-1406](#), *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 the eighth Friday 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*)

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What if only one candidate files?

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that there is only one (1) qualified regular or write-in candidate 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)

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
27-121	LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS
27-129	CONSOLIDATION OF DISTRICT - - ELECTION

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; am. 1929, ch. 268; am. 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

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(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; am. 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 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; am. 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 “... **cemetary maintenance district, yes,**” or “... **cemetary 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; am. 1982, ch. 254; am. 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; am. 1982, ch. 254; am. 1995, ch. 118; am. 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 “... **cemetary maintenance district, no,**” then a

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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 “... **cemeterly maintenance district, yes,**” the board shall, by order entered on its minutes, 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; am. 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; am. 2017, ch. 128; am. 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, 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*.

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(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; am. 1967, ch. 14; am. 1982, ch. 250; am. 1995, ch. 118; am. 2009, ch. 341; am. 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 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; am. 1947, ch. 115; am. 1957, ch. 51; am. 1959, ch. 69; am. 1963, ch. 337; am. 1980, ch. 350; am. 1995, ch. 118]

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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.

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; am. 1929, ch. 268; am. 1980, ch. 350]

27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At the last regular meeting of the cemetery maintenance board prior to the second Monday of September in each year, the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than four hundredths of one percent (.04%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section, it shall be

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the duty of the secretary of the district to transmit to the county auditor and county assessor and the state tax commission certified copies of the resolution providing for such levy as provided in section 63-808, *Idaho Code*. Said taxes shall be collected as provided in section 63-812, *Idaho Code*.

(2) If two (2) or more cemetery maintenance 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 highest levy subject to the limitations of section 63-802, *Idaho Code*, had annexed the other district or districts.

(3) An additional property tax of not more than six hundredths of one percent (.06%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district may be levied by the cemetery board for the sole and express purpose of acquisition of burial ground. The proceeds from such levy may be accumulated by the board for future acquisitions or pledged to the repayment of indebtedness incurred pursuant to section 27-122, *Idaho Code*, provided that the proposal to levy such additional amount of property tax, or portion thereof, shall have been approved by at least two-thirds (2/3) of the qualified electors residing in the cemetery maintenance district at a previous election held in accordance with the provisions of section 34-106, *Idaho Code*.

History: [S.L. 1927, ch. 197; I.C.A., sec. 27-120; am. 1943, ch. 27; I.C., sec. 28-121 (1948 Ed.); am. 1963, ch. 341; am. 1977, ch. 115; am. 1982, ch. 101; am. 1995, ch. 82; am. 1995, ch. 118; am. 1996, ch. 322; am. 2015, ch. 244; am. 2018, ch. 196]

27-129. CONSOLIDATION OF DISTRICT — ELECTION. Any cemetery maintenance district may consolidate with one (1) or more existing cemetery maintenance districts, provided that at least one (1) district in the proposed consolidation contains less than one hundred fifty (150) registered electors when consolidation is proposed, and that none of the districts are farther than ten (10) miles apart from any other district in the proposed consolidation. Such a consolidation is only permitted subject to the following procedure and with the following effects:

(1) If, the board of any cemetery maintenance district determines that consolidation with one (1) or more other existing cemetery maintenance districts would be to the advantage of the district, the board will cause to be prepared an agreement for consolidation that will provide:

- (a) The name of the proposed consolidated cemetery district;
- (b) That all property of the districts to be consolidated will 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 27-111, *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 cemetery subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery subdistrict three (3) shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, the commissioners from cemetery subdistricts one (1), three (3) and five (5) shall be elected for terms of four (4) years, and the commissioners from cemetery subdistricts two (2) and four (4) shall be elected for an initial term of two (2) years. Thereafter, the term of all commissioners shall be four (4) years; and
- (e) At least one (1) public hearing shall be held by the boards of cemetery district commissioners prior to the election.

(2) After approval of the agreement by each of the cemetery maintenance district boards, such consolidation must then be presented to the electors of the cemetery districts for ratification in order to take effect. An election ratifying an agreement consolidating cemetery maintenance districts must be held in an even-numbered year on the dates provided in section 34-106(1)(a) and (b), *Idaho Code*. The board of each district involved in the proposed consolidation must approve the agreement at least eighty (80) days before such an election and the county clerk where each district is located must be notified of the agreement of consolidation at least eighty (80) days before such an election.

(3) The county clerk will provide personal notice of the election by mail to each elector of the district and notice of whether a levy rate would increase as a consequence of the proposed consolidation, detailing the levy rate that would be adopted by consolidation. The election will otherwise be conducted as provided in section 27-106, *Idaho Code*, except that the question will be “**Consolidation of... cemetery districts, yes,**” or “**Consolidation of... cemetery districts, no,**” or words equivalent thereto. If more than one-half (1/2) of the votes cast for each of the affected districts are yes, the agreement will become effective. If more than one-half (1/2) of the votes cast in either of the affected districts are no, the agreement will be void and of no effect.

(4) Upon the agreement of consolidation becoming effective, the board of the consolidated cemetery district will file a certified copy of the agreement with the county recorder and comply with the provisions of section 63-215, *Idaho Code*. The consolidated district will thereafter have the same rights and obligations as any other district organized under the statutes of this state.

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(5) When the agreement of consolidation is filed with the county recorder, the county commissioners will divide the cemetery maintenance district into as many subdistricts as are provided in the agreement of consolidation. The subdistricts will be as nearly equal in population, area and mileage as practicable. The subdistricts will be used in the next election following consolidation and in elections thereafter as provided in subsection (1)(d) of this section and section 27-111, *Idaho Code*.

(6) An agreement of consolidation will not take effect unless such consolidation complies with the provisions of section 27-121(2), *Idaho Code*.

History: [S.L. 2018, ch. 196]

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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 4 community college districts in the state (one in Kootenai County, one in Twin Falls and Jerome counties, one in Ada and Canyon counties, and one in Bonneville County).

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. (33-2106, 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 trustee zone in which the candidate resides.

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, 34-1406 *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 the eighth Friday 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*)

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*)

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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. Campaign finance filings are to be made through an online campaign finance reporting system maintained by the Secretary of State, with the County Clerk and County Prosecuting Attorney responsible for enforcement. (67-6608, 67-6615, 67-6623, and 67-6625, *Idaho Code*)

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; am. 1969, ch. 177; am. 1970, ch. 136; am. 1971, ch. 25; am. 1982, ch. 60; am. 1985, ch. 257; am. 1987, ch. 256; am. 1989, ch. 88; am. 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; am. 1965, ch. 238; am. 1980, ch. 350]

UNIFORM DISTRICT ELECTION LAW
COMMUNITY COLLEGE DISTRICT

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 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; am. 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.

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COMMUNITY COLLEGE DISTRICT

(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.

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; am. 2009, ch. 23]

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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 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]

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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;
- (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; am. 2003, ch. 349; am. 2016, ch. 108]

UNIFORM DISTRICT ELECTION LAW
EDUCATION DISTRICT

Education District 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 third Tuesday in May, and on the second Tuesday in March and last Tuesday in August 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](#), [34-1406](#), *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 the eighth Friday 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*)

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*)

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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 situated, 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 campaign finance laws. Campaign finance filings are to be made through an online campaign finance reporting system maintained by the Secretary of State, with the County Clerk and County Prosecuting Attorney responsible for enforcement. (67-6608, 67-6615, 67-6623, and 67-6625, *Idaho Code*)

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
33-511	MAINTENANCE OF SCHOOLS
33-802	SCHOOL LEVIES
33-803	LEVY FOR EDUCATION OF CHILDREN OF MIGRATORY FARM WORKERS
33-804	SCHOOL PLANT FACILITIES RESERVE FUND LEVY

UNIFORM DISTRICT ELECTION LAW
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33-1103 DEFINITIONS — BONDS — LIMITATION ON AMOUNT — ELECTIONS TO AUTHORIZE ISSUANCE
33-1510 CONTRACTS FOR TRANSPORTATION SERVICE

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 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;
- (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 thirty (30) calendar days after its first regular meeting held subsequent to receipt of the petition, shall transmit the petition, with recommendations, to the state board 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 approves the proposal, it shall be submitted to the school district electors residing in the district from which the area is proposed to be excised and in the district to which the area is proposed to be annexed, 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, that 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:

- (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) In order for a proposal to excise and annex an area to be approved:

- (a) The proposal must be approved by a majority of electors voting in the election in both:
 - (i) The district from which the area is proposed to be excised; and
 - (ii) The district to which the area is proposed to be annexed; and

(b) 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.

(8) If the proposal is approved by the electors in the manner prescribed, the board of canvassers shall 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; am. 1998, ch. 244; am. 2009, ch. 107; am. 2009, ch. 341; am. 2010, ch. 215; am. 2020, ch. 288]

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:

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(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;

(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; am. 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]

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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; am. 1998, ch. 88; am. 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; am. 1985, ch. 237; am. 1989, ch. 296; am. 2009, ch. 107; am. 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.

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.

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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; am. 1963, ch. 175; am. 1965, ch. 272; am. 1969, ch. 152; am. 2009, ch. 107; am. 2009, ch. 341, am. 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 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

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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; am. 1967, ch. 403; am. 1969, ch. 412; am. 1973, ch. 125; am. 1979, ch. 271; am. 1984, ch. 94; am. 1989, ch. 121; am. 1990, ch. 31; am. 1994, ch. 182; am. 2001, ch. 163; am. 2008, ch. 351; am. 2009, ch. 341; am. 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 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; am. 1972, ch. 105; am. 1985, ch. 107; am. 1989, ch. 17; am. 1991, ch. 111; am. 2006, ch. 306; am. 2008, ch. 104; am. 2009, ch. 220; am. 2009, ch. 227; am. 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

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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, 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; am. 2009, ch. 341; am. 2013, ch. 183; am. 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]

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; am. 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; am. 1972, ch. 93; am. 1978, ch. 65; am. 1979, ch. 130; am. 1982, ch. 60; am. 1985, ch. 235; am. 1992, ch. 187; am. 1997, ch. 40; am. 2005, ch. 213; am. 2007, ch. 166; am. 2009, ch. 171; am. 2009, ch. 341; am. 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; am. 1982, ch. 60; am. 1983, ch. 37; am. 2009, ch. 341]

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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; am. 1969, ch. 177; am. 1970, ch. 37; am. 1970, ch. 136; am. 1971, ch. 25; am. 1982, ch. 60; am. 1985, ch. 257; am. 1987, ch. 256; am. 1989, ch. 88; am. 2009, ch. 341]

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 that 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 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 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. When a person is duly elected to a trustee zone and the person is found to no longer reside in the trustee zone due to a change in the trustee zone boundaries, that person shall be allowed to continue serving as a trustee for the remainder of that person's term as long as the person resides at the address used at the time of the election.

(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 record 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; am. 1973, ch. 125; am. 1980, ch. 32; am. 2008, ch. 351; am. 2009, ch. 57; am. 2009, ch. 341; am. 2018, ch. 164; am. 2023, ch. 241]

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; am. 1967, ch. 9; am. 1992, ch. 187; am. 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; am. 1993, ch. 51; am. 1994, ch. 160; am. 2004, ch. 26; am. 2009, ch. 341; am. 2016, ch. 261]

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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 - AM. 2015, ch. 12]

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 situated, 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; am. 1975, ch. 181; am. 1984, ch. 94; am. 1986, ch. 348; am. 1987, ch. 141; am. 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.

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(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 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; am. 2008, ch. 351; am. 2009, ch. 341, am. 2018, ch. 164]

33-511. MAINTENANCE OF SCHOOLS. The board of trustees of each school district shall have the following powers and duties:

(1) Each elementary school district shall maintain at least one (1) elementary school, and each other school district shall maintain at least one (1) elementary school and one (1) secondary school;

(2) To employ necessary help and labor to maintain and operate the schools of the district;

(3) To discontinue any school within the district whenever it shall find such discontinuance to be in the best interests of the district and of the pupils therein. For the purposes of this section, discontinuing a school shall mean no longer maintaining a school of any kind, at the same location, except in the case of secondary units as herein provided.

(a) When any school proposed to be discontinued is one which was operated and maintained by a former district now wholly incorporated within the boundaries of the district operated by said board of trustees, and, immediately following reorganization and the dissolution of said former district, such school has been continuously operated and maintained at the same location by the presently organized district, the following procedures shall apply before discontinuing a school:

(i) The board of trustees must first give notice of such proposal not later than the first day of June next preceding the date of the proposed discontinuance. Such notice shall be posted, and published once, in the manner provided in section 33-402, *Idaho Code*, and shall identify the school proposed to be discontinued.

(ii) If, not later than the first day of July following the posting and publishing of the notice of discontinuance, five (5) or more qualified school district electors residing within the school district shall petition the board of trustees for an election to be held within the school district on the question of discontinuance of that school, the board of trustees shall immediately order an election to be held on the first available election date provided by section 34-106(7), *Idaho Code*, that is at least fifty (50) days following the date of said order and shall give notice of the election.

(iii) Notice of such election shall be posted at or near the main door of the school proposed to be discontinued and at or near the main door of the administrative offices of the school district and shall also be published in one (1) issue of a newspaper printed in the county in which is situate the school proposed to be discontinued. The notice shall state the date the election is to be held, the place of voting, and the hours between which the polls shall be open. In addition, the notice of election shall describe the area of the particular attendance unit of the school district and shall identify the school proposed to be discontinued; and it shall state that only qualified school district electors residing within the school district may vote on the question of discontinuing the school.

(iv) The election shall be held within the school district and there shall be submitted to the electors a ballot containing the proposal:

1. For discontinuing the school located at....,

2. Against discontinuing the school located at.....

(v) If a majority of the qualified electors, as defined in this section and voting in the election, shall vote against discontinuing that school, then said school shall not be discontinued; and no proposal to discontinue the same school shall be made by the board of trustees of the district within nine (9) months after the date of the election.

(vi) If a secondary unit which the trustees of a district propose to close is more than thirty (30) miles by all-weather road from the attendance unit to which it is proposed to transfer such students, then, notwithstanding other provisions of this section, five (5) electors residing within the attendance area of the unit proposed to be closed may, as provided by this section, petition the board of trustees requesting an election to determine whether or not such attendance unit, or any portion of it, shall be closed. The board shall immediately call and hold an election as herein provided. However, for the purpose of this section relating to the secondary attendance unit thirty (30) miles or more distant from another secondary attendance unit, only the patrons resident in this attendance area shall be eligible to vote, except for attendance units, or portions of them, created after January 1, 2002, in which case qualified school district electors throughout the school district shall be eligible to vote. The election shall be deemed passed and the unit shall not be closed if a majority of those voting in the election vote in favor of retaining the attendance unit.

(b) The provisions of paragraph (a) of this subsection shall not apply when:

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(i) The administrator of the division of occupational and professional licenses has determined that the school constitutes an imminent public safety hazard and has issued an order or notice requiring the school district superintendent, principal, board member or other person in charge to cause all persons, except those necessary to eliminate the condition, to be withdrawn from and to be restrained from entering the school, pursuant to section 39-8008, *Idaho Code*; and

(ii) The school district board of trustees have voted at a public meeting to discontinue the school.

History: [S.L. 1963, ch. 13; am. 1967, ch. 366; am. 1973, ch. 5; am. 2000, ch. 424; am. 2002, ch. 317; am. 2011, ch. 125; am. 2011, ch. 151; am. 2021, ch. 325; am. 2023, ch. 15]

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 December 31 of the previous year.

History: [S.L. 1963, ch. 13; am. 1963, ch. 422; am. 1970, ch. 61; am. 1973, ch. 296; am. 1979, ch. 254; am. 1980, ch. 390; am. 1981, ch. 224; am. 1983, ch. 235; am. 1987, ch. 52; am. 1987, ch. 273; am. 1988, ch. 344; am. 1989, ch. 8; am. 1991, ch. 313; am. 1995, ch. 26; am. 1996, ch. 322; am. 2005, ch. 191; am. 2006, ch. 1; am. 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

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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; am. 1995, ch. 82; am. 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 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

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(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; am. 1970, ch. 115; am. 1975, ch. 220; am. 1979, ch. 254; am. 1992, ch. 276; am. 1994, ch. 299; am. 1996, ch. 322; am. 2009, ch. 341; am. 2010, ch. 326, am. 2011, ch. 299]

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; am. 1973, ch. 282; am. 1974, ch. 4; am. 1975, ch. 88; am. 1979, ch. 114; am. 1979, ch. 254; am. 1980, ch. 205; am. 1980, ch. 350; am. 1996, ch. 322; am. 2001, ch. 336; am. 2007, ch. 358; am. 2008, ch. 400; am. 2009, ch. 341; am. 2014, ch. 357]

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

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the contract by notifying the school district of contract approval or of recommended or required changes. A 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; am. 1987, ch. 9; am. 1989, ch. 3; am. 1997, ch. 40; am. 1997, ch. 176; am. 2004, ch. 136; am. 2004, ch. 254; am. 2009, ch. 171; am. 2009, ch. 341; am. 2011, ch. 151]

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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. ([31-1401](#), [34-1406](#), *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 the eighth Friday 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*)

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What if only one candidate files?

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that there is only one (1) qualified regular or write-in candidate 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 fire protection 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, 31-1409, *Idaho Code*)

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**

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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; am. 1980, ch. 350; am. 1984, ch. 202; am. 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; am. 1986, ch. 137; am. 2006, ch. 318]

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; am. 1986, ch. 137; am. 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**

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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; am. 1986, ch. 137; am. 1995, ch. 118; am. 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 canvassed and declared by the board of county commissioners.

History: [S.L. 1943, ch. 161; am. 1982, ch. 254; am. 1986, ch. 137; am. 1995, ch. 118; am. 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; am. 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 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

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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; am. 1986, ch. 137; am. 1998, ch. 190; am. 2006, ch. 318; am. 2010, ch. 337; am. 2016, ch. 89; am. 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; am. 1986, ch. 137; am. 1996, ch. 360; am. 2006, ch. 318; am. 2016, ch. 89; am. 2017, ch. 128; am. 2018, ch. 168]

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

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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; am. 1951, ch. 135; am. 1982, ch. 361; am. 1995, ch. 118; am. 1998, ch. 190; am. 2000, ch. 336; am. 2003, ch. 90; am. 2006, ch. 318; am. 2009, ch. 341; am. 2010, ch. 185; am. 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 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; am. 2001, ch. 109; am. 2006, ch. 318; am. 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]

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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.

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; am. 1959, ch. 139; am. 1984, ch. 202; am. 1994, ch. 360; am. 1995, ch. 84; am. 1995, ch. 118; am. 1996, ch. 360; am. 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.

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(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 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; am. 1975, ch. 219; am. 1980, ch. 350; am. 1984, ch. 117; am. 1984, ch. 202; am. 1994, ch. 360; am. 1995, ch. 118; am. 2006, ch. 318; am. 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:

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(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 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; am. 1996, ch. 322; am. 1997, ch. 372; am. 1998, ch. 190; am. 2006, ch. 318; am. 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; am. 2006, ch. 318]

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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 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; am. 1947, ch. 219; am. 1965, ch. 208; am. 1984, ch. 202; am. 1988, ch. 316; am. 1996, ch. 208; am. 1996, ch. 322; am. 1997, ch. 117; am. 1999, ch. 288; am. 2002, ch. 172; am. 2005, ch. 178; am. 2005, ch. 178; am. 2006, ch. 318; am. 2011, ch. 19; am. 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

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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.

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; am. 1945, ch. 115; am. 1949, ch. 154; am. 1974, ch. 52; am. 1980, ch. 350; am. 1986, ch. 137; am. 2006, ch. 318]

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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](#), [34-1406](#), [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 the eighth Friday 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*)

What if only one candidate files?

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that there is only one (1) qualified regular or write-in candidate 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*)

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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 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*)

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

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- 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
- 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
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- 40-1607 ELECTION PROCEDURE
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- 40-1617 HEARING ON PETITION — NOTICE
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- 40-1713 MEETING OF HIGHWAY STUDY COMMISSION — SELECTION OF OPTION FOR SUBMISSION — ELECTION — IMPLEMENTATION OF OPTION — RETENTION OF EXISTING SYSTEM
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- 40-1802 PETITION FOR DISSOLUTION — CONTENTS
- 40-1803 ORDER FOR HEARING UPON PETITION
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- 40-1809 COUNTING VOTES — CANVASS — ORDER OF DISSOLUTION
- 40-1810 EXPENSES OF DISSOLUTION — HOW BORNE AND PAID

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; am. 1994, ch. 123; am. 2009, ch. 341]

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; am. 2009, ch. 341]

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

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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; am. 1986, ch. 327; am. 2009, ch. 341]

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

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, 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; am. 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

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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; am. 1991, ch. 123; am. 1999, ch. 332; am. 2006, ch. 165; am. 2009, ch. 341; am. 2011, ch. 11; am. 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; am. 1994, ch. 123; am. 2002, ch. 298; am. 2009, ch. 34; am. 2010, ch. 185; am. 2010, ch. 197]

40-1305A. ELECTION ADMINISTRATION. Highway district elections shall be conducted in accordance 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; am. 2008, ch. 258; am. 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

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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; am. 2006, ch. 165]

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; am. 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 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; am. 1988, ch. 221; am. 1993, ch. 109; am. 1998, ch. 300; am. 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

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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 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; am. 2001, ch. 44; am. 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; am. 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; am. 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 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.

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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; am. 1987, ch. 125; am. 1988, ch. 265; am. 1991, ch. 285; am. 2009, ch. 341]

40-1417. [REPEALED - AM. 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 situated, 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; am. 2009, ch. 341]

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 district, whether situated entirely within the boundaries of any county or within two (2) or more adjoining counties.

History: [S.L. 1985, ch. 253; am. 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; am. 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

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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; am. 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 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; am. 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; am. 2000, ch. 202; am. 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; am. 2000, ch. 202; am. 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; am. 2000, ch. 202; am. 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).

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(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; am. 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; am. 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. 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; am. 2000, ch. 202; am. 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; am. 2009, ch. 341]

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

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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 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; am. 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; am. 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; am. 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 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]

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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; am. 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; am. 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 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; am. 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]

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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; am. 2009, ch. 341]

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 12, title 34, Idaho Code.

History: [S.L. 1958, ch. 253; am. 1998, ch. 415; am. 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; am. 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.

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(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; am. 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.

(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; am. 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; am. 2009, ch. 341]

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; am. 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]

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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]

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; am. 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; am. 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; am. 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; am. 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; am. 2009, ch. 341]

UNIFORM DISTRICT ELECTION LAW
HOSPITAL DISTRICT

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, a qualified elector of the state of Idaho, and cannot be an employee of, or have an ownership interest or investment in, another ambulatory surgery center, hospital, or health system.

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](#), [34-1406](#), [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 the eighth Friday 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 there is only one (1) qualified regular or write-in candidate for a position, it is not necessary for the candidate to stand for election. The board of trustees 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*)

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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 ninety (90) 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*)

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.

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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 day of the last publication.

History: [S.L. 1965, ch. 173; am. 1976, ch. 132; am. 1990, ch. 354; am. 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 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

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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; am. 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; am. 1995, ch. 118; am. 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 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]

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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; am. 1993, ch. 137; am. 1995, ch. 118; am. 2004, ch. 263; am. 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.

(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 is a resident of the hospital district and a qualified elector of the state of Idaho. A trustee may not be an employee of, or have an ownership interest or investment in, another ambulatory surgery center, hospital, or health system.

History: [S.L. 1965, ch. 173; am. 1973, ch. 99; am. 2016, ch. 287; am. 2021, ch. 46]

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]

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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 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; am. 1977, ch. 101; am. 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 ninety (90) 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; am. 2016, ch. 287; am. 2021, ch. 46]

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 them; 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 trustees 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 trustee, 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's 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 a trustee, 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:

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- (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;
- (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; am. 1995, ch. 118; am. 1995, ch. 154; am. 2009, ch. 341; am. 2011, ch. 11; am. 2021, ch. 46]

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; am. 1971, ch. 25; am. 1976, ch. 132; am. 1977, ch. 60; am. 1980, ch. 350; am. 1983, ch. 133; am. 1990, ch. 354; am. 1991, ch. 73; am. 1995, ch. 118; am. 2009, ch. 341; am. 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,

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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; am. 1995, ch. 118; am. 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; am. 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; am. 1971, ch. 25; am. 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 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

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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.

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]

UNIFORM DISTRICT ELECTION LAW
LIBRARY DISTRICT

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](#), [34-1406](#), *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 the eighth Friday 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*)

What if only one candidate files?

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that there is only one (1) qualified regular or write-in candidate 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*)

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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 with in 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)

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.

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(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 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; am. 1965, ch. 255; am. 1993, ch. 303; am. 1996, ch. 71; am. 2002, ch. 312; am. 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; am. 1967, ch. 63; am. 1990, ch. 378; am. 1995, ch. 119; am. 1996, ch. 71; am. 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.

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(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;
- (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; am. 1989, ch. 132; am. 1990, ch. 378; am. 1995, ch. 119; am. 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; am. 1967, ch. 93; am. 1989, ch. 132; am. 1990, ch. 378; am. 1993, ch. 303; am. 1995, ch. 119; am. 1996, ch. 71; am. 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 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

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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; am. 1996, ch. 71; am. 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; am. 1990, ch. 378; am. 1995, ch. 119; am. 1996, ch. 71; am. 2006, ch. 235]

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; am. 1996, ch. 71; 2006, ch. 235]

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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; am. 1990, ch. 378; am. 1996, ch. 71; am. 2006, ch. 235; am. 2013, ch. 135]

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; am. 1989, ch. 132; am. 1990, ch. 378; am. 1995, ch. 119; am. 1996, ch. 71; am. 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.

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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]

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; am. 1980, ch. 187; am. 1981, ch. 305; am. 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 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;

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(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; am. 1983, ch. 107; am. 1989, ch. 132; am. 1996, ch. 71; am. 2002, ch. 312; am. 2009, ch. 341; am. 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.

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; am. 1989, ch. 132; am. 1993, ch. 303; am. 1995, ch. 119; am. 1996, ch. 71; am. 2006, ch. 235; am. 2009, ch. 341; am. 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; am. 1989, ch. 132; am. 1992, ch. 4; am. 1995, ch. 119; am. 1996, ch. 71; am. 2006, ch. 235]

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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; am. 1996, ch. 71; am. 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 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; am. 1989, ch. 132; am. 1996, ch. 71; am. 2002, ch. 312; am. 2006, ch. 235; am. 2009, ch. 341; am. 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.

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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; am. 1980, ch. 350; am. 1989, ch. 132; am. 1993, ch. 303; am. 2002, ch. 155; am. 2009, ch. 132]

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; am. 1975, ch. 105; am. 1992, ch. 275; am. 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.

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(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; am. 1996, ch. 71]

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 dispersement 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; am. 1996, ch. 71]

UNIFORM DISTRICT ELECTION LAW
MOSQUITO ABATEMENT DISTRICT

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](#), [34-1406](#), [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*)

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

UNIFORM DISTRICT ELECTION LAW
MOSQUITO ABATEMENT DISTRICT

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; am. 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 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; am. 1995, ch. 118; am. 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

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MOSQUITO ABATEMENT DISTRICT

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; am. 1974, ch. 18; am. 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 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; am. 1974, ch. 23; am. 1993, ch. 199; am. 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; am. 1974, ch. 23; am. 1993, ch. 199; am. 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

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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; am. 1993, ch. 81; am. 1995, ch. 118; am. 2007, ch. 188]

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; am. 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; am. 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 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; am. 2015, ch. 141]

UNIFORM DISTRICT ELECTION LAW
MOSQUITO ABATEMENT DISTRICT

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]

UNIFORM DISTRICT ELECTION LAW
MUNICIPAL ELECTIONS

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. In addition, city council candidates in cities that have been divided into city council districts pursuant to section [50-707A](#), *Idaho Code*, must be residents of the district for which they are a candidate, and must be elected by the voters of such district. 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](#), [50-707A](#), *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](#), [34-1406](#), [50-403](#), *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 city clerk not less than the ninth Friday 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*)

UNIFORM DISTRICT ELECTION LAW
MUNICIPAL ELECTIONS

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 there is only one (1) qualified regular or write-in candidate, no election will be held. The city clerk shall declare the candidate elected, and the candidate shall be installed in office at the first city council meeting in January following the election. (34-1407, 50-405, *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 nomination made by the mayor and confirmed by the council. Such 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. Campaign finance filings are to be made through an online campaign finance reporting system maintained by the Secretary of State, with the County Clerk and County Prosecuting Attorney responsible for enforcement. (67-6608, 67-6615, 67-6623, and 67-6625, *Idaho Code*)

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

UNIFORM DISTRICT ELECTION LAW
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- 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
- 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

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.

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(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.

(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; am. 1982, ch. 81; am. 1983, ch. 45; am. 1994, ch. 66; am. 2002, ch. 75; am. 2009, ch. 341]

50-403. SUPERVISION OF ADMINISTRATION OF ELECTION LAWS BY COUNTY CLERK. (1) 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.

(2) Elections in a city located in more than one (1) county shall be conducted jointly by the clerks of the respective counties, as provided in section 34-1401, Idaho Code.

History: [S.L. 1978, ch. 329; am. 2007, ch. 202; am. 2009, ch. 341; am. 2021, ch. 325]

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; am. 2009, ch. 341]

UNIFORM DISTRICT ELECTION LAW
MUNICIPAL ELECTIONS

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)(a) No city election shall be held for an office if, after the deadline for filing a declaration of intent to be a write-in candidate for the office, it appears:

(i) For the office of mayor, only one (1) person has filed a declaration of candidacy or a declaration of intent to be a write-in candidate;

(ii) For the office of city council member in cities that have established designated seats, as provided in section 50-707, *Idaho Code*, only one (1) person has filed a declaration of candidacy or a declaration of intent to be a write-in candidate for a particular seat up for election for a two (2) year term or a four (4) year term; or

(iii) For the office of city council member in cities that do not have designated council seats as provided in section 50-707, *Idaho Code*, the number of people who have filed a declaration of candidacy or a declaration of intent to be a write-in candidate is equal to or fewer than the number of council positions up for election for a two (2) year term or a four (4) year term.

(b) If the provisions of paragraph (a) of this subsection have been met, the city clerk shall declare such candidate elected. The candidate shall receive a certificate of election and be installed at the first city council meeting in January following the election.

(3) 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.

(4) 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, 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 if it is necessary to do emergency work to safeguard life, health or property.

(5) Pursuant to section 34-1401, *Idaho Code*, all city elections shall be conducted by the county 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 city 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.

(6) 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; am. 1993, ch. 379; am. 2009, ch. 341; am. 2020, ch. 76]

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; am. 2002, ch. 75; am. 2009, ch. 341]

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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 _____

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
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_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____

UNIFORM DISTRICT ELECTION LAW
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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; am. 2002, ch. 32; am. 2002, ch. 75; am. 2006, ch. 105; am. 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 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; am. 1989, ch. 64; am. 1996, ch. 337; am. 1998, ch. 240; am. 2002, ch. 75; am. 2006, ch. 105; am. 2009, ch. 341; am. 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; am. 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; am. 2009, ch. 341; am. 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; am. 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; am. 2009, ch. 341]

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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; am. 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; am. 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; am. 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, except as those provisions are specifically modified by this chapter.

History: [S.L. 1978, ch. 329; am. 2009, ch. 341; am. 2021, ch. 325]

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; am. 2009, ch. 341]

50-420. [REPEALED - AM. 2019, ch. 288]

50-501. [REPEALED - AM. 2015, ch. 285]

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; am. 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; am. 1992, ch. 176; am. 2002, ch. 75; am. 2006, ch. 105; am. 2009, ch. 341]

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 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]

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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; am. 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; am. 1972, ch. 16; am. 2018, ch. 169]

50-704. VACANCIES — APPOINTMENT. (1) A vacancy on the council shall be filled by nomination made by the mayor. If the position of mayor is vacant, the nomination shall be made by the council president. Lacking both a mayor and a council president, the nomination shall be made by the most senior member of the council. For any nomination made pursuant to this subsection, the nominee must be confirmed by the council.

(2) If the number of members of the council is insufficient to establish a quorum, the ranking elected official, in order of the mayor, council president, and senior member of the council, shall nominate a name or names to the governor for appointment sufficient to establish a quorum.

(3) For any appointment made pursuant to this section, the 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; am. 2023, ch. 93]

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: am. 1984, Ch 108]

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50-707A. ELECTION OF COUNCILMEN BY DISTRICTS. (1) Any city having fewer than one hundred thousand (100,000) inhabitants based upon the most recent federal decennial census 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. Any city having more than one hundred thousand (100,000) inhabitants based upon the most recent federal decennial census shall establish districts and shall elect councilmen by districts for districts so established. Districts shall be established no later than one hundred twenty (120) days prior to the general election following the date that election precincts are established pursuant to the provisions of section 34-301, *Idaho Code*.

(2) Each district shall consist of one (1) or more contiguous election precincts as established pursuant to the provisions of chapter 3, title 34, *Idaho Code*, and each district shall, to the nearest extent possible, contain the same number of people based upon the most recent federal decennial census.

(3) Each city establishing districts 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 establishment of city election districts, council members are to be elected by the electors of the said geographic district, and any candidate must be a resident of said geographic district. For cities with fewer than one hundred thousand (100,000) inhabitants that establish districts by ordinance, the council shall 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; am. 2020, ch. 269]

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; am. 2002, ch. 75; am. 2006, ch. 105; am. 2009, ch. 341]

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 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; am. 1984, ch. 156; am. 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; am. 1984, ch. 156; am. 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; am. 1984, ch. 156]

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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; am. 1981, ch. 158; am. 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; am. 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 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; am. 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; am. 1984, ch. 156]

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; am. 1971, ch. 25; am. 2009, ch. 341; am. 2011, ch. 11]

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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 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; am. 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 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

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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; am. 1973, ch. 40; am. 1977, ch. 50, 1981, ch. 300; am. 2009, ch. 341; am. 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; am. 1981, ch. 328; am. 2013, ch. 135]

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; am. 1984, ch. 225]

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]

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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; am. 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; am. 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; am. 2007, ch. 202; am. 2009, ch. 341]

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; am. 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; am. 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]

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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; am. 2009, ch. 341]

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 authorized by sections 50-2201 through 50-2213, *Idaho Code*, to disincorporate said city.

History: [S.L. 1967, ch. 429; am. 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; am. 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; am. 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; am. 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]

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; am. 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 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.

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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; am. 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; am. 2009, ch. 341]

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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](#), [34-1406](#), *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 the eighth Friday 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*)

What if only one candidate files?

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that there is only one (1) qualified regular or write-in candidate 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*)

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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*)

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

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RECREATION DISTRICT

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.

(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.

History: [S.L. 1970, ch. 212; am. 1980, ch. 350; am. 1995, ch. 118; am. 2001, ch. 375; am. 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:

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(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; am. 1983, ch. 114; am. 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 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; am. 1971, ch. 32; am. 1982, ch. 254; am. 1983, ch. 114; am. 1994, ch. 328; am. 2002, ch. 4; am. 2009, ch. 341; am. 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; am. 1982, ch. 254; am. 1995, ch. 118; am. 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*.

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(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, am. 1995, ch. 82; am. 1995, ch. 353; am. 1996, ch. 208; am. 1996, ch. 322; am. 1997, ch. 117; am. 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 made by the board of county commissioners.

History: [S.L. 1970, ch. 212; am. 1995, ch. 118; am. 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

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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; am. 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 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; am. 1980, ch. 350; am. 1995, ch. 118; am. 1995, ch. 353; am. 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; am. 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; am. 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

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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.

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.

History: [S.L. 1971, ch. 71; am. 1995, ch. 82; am. 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]

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REVENUE AND TAXATION

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](#), [34-1406](#), [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*)

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; am. 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

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REVENUE AND TAXATION

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; am. 2009, ch. 341]

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; am. 1995, ch. 118; am. 2009, ch. 341]

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SOIL CONSERVATION DISTRICT

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](#), [34-1406](#), *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 the eighth Friday 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*)

What if only one candidate files?

If after the deadline for filing a declaration of intent as a write-in candidate, it appears that there is only one (1) qualified regular or write-in candidate 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*)

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SOIL CONSERVATION DISTRICT

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)

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.

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SOIL CONSERVATION DISTRICT

(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 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; am. 1982, ch. 254; am. 1995, ch. 118; am. 1997, ch. 180; am. 2000, ch. 160; am. 2003, ch. 107; am. 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.

(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

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SOIL CONSERVATION DISTRICT

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 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

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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 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.

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(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; am. 1973, ch. 164; am. 1995, ch. 118; am. 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 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*.

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(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.

(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; am. 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 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

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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; am. 1963, ch. 30; am. 1973, ch. 59; am. 1978, ch. 280; am. 1986, ch. 179; am. 1990, ch. 3; am. 1995, ch. 118; am. 1995, ch. 256; am. 1997, ch. 180; am. 1999, ch. 78; am. 2000, ch. 4; am. 2008, ch. 383; am. 2009, ch. 341; am. 2010, ch. 279; am. 2011, ch. 11; am. 2012, ch. 211]

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

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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.

(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; am. 1995, ch. 118; am. 2009, ch. 341; am. 2010, ch. 279]

UNIFORM DISTRICT ELECTION LAW
WATER AND SEWER DISTRICT

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](#), [34-1406](#), [42-3211](#), *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 water & sewer district not less than the eighth Friday 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*)

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WATER AND SEWER DISTRICT

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 regular or write-in 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*)

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**
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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 not less than five (5) days prior to the election, as provided in section 34-1406, *Idaho Code*.

History: [S.L. 1947, ch. 152; am. 1955, ch. 63; am. 1957, ch. 29; am. 1974, ch. 101; am. 1975, ch. 189; am. 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; am. 197, ch. 272; am. 1980, ch. 191; am. 1982, ch. 364; am. 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; am. 1980, ch. 191; am. 1982, ch. 364; am. 1995, ch. 118]

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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 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]

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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 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.

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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 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.

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; am. 1955, ch. 63; am. 1957, ch. 29; am. 1967, ch. 186; am. 1995, ch. 118; am. 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 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; am. 1965, ch. 191; am. 1977, ch. 7; am. 1993, ch. 44; am. 1993, ch. 387; am. 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; am. 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*.

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(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; am. 1957, ch. 29; am. 1980, ch. 257; am. 1995, ch. 118; am. 2009, ch. 341; am. 2010, ch. 185; am. 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, 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.

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(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 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.

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(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 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; am. 1957, ch. 29; am. 1969, ch. 274; am. 1973, ch. 110; am. 1975, ch. 28; am. 1988, ch. 215; am. 1995, ch. 118; am. 1996, ch. 322; am. 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; am. 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 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

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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; am. 1957, ch. 29; am. 1971, ch. 25; am. 1992, ch. 151, am. 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; am. 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; am. 1967, ch. 186; am. 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; am. 1995, ch. 118]

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]

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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 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;

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- (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;
- (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.

(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]

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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](#), [34-1406](#), [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 the eighth Friday 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 there is only one (1) qualified regular or write-in candidate 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*)

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*)

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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*)

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

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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]

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; am. 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; am. 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; am. 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; am. 1995, ch. 118; am. 2009, ch. 341]

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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 situate, 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; am. 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 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; am. 1995, ch. 118; am. 2009, ch. 341]

UNIFORM DISTRICT ELECTION LAW
WATERCOURSES AND PORT DISTRICT

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; am. 1995, ch. 118; am. 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; am. 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; am. 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; am. 2009, ch. 341]

UNIFORM DISTRICT ELECTION LAW
WEATHER MODIFICATION DISTRICT

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](#), [34-1406](#), *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 the eighth Friday 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 there is only one (1) qualified regular or write-in candidate 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*)

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*)

UNIFORM DISTRICT ELECTION LAW
WEATHER MODIFICATION DISTRICT

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).

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; am. 1982, ch. 254; am. 1995, ch. 118, am. 2011, ch. 11]

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