

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 319, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CITY ELECTIONS; AMENDING SECTION 34-101, IDAHO CODE, TO PRO-
2 VIDE THAT CITY ELECTIONS SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO
3 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-106, IDAHO CODE, TO
4 PROVIDE THAT CITY INITIATIVE AND REFERENDUM ELECTIONS SHALL BE HELD
5 IN EVEN-NUMBERED YEARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
6 SECTION 34-1801B, IDAHO CODE, TO PROVIDE THAT CITY INITIATIVE AND REF-
7 ERENDUM ELECTIONS SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO MAKE
8 TECHNICAL CORRECTIONS; AMENDING SECTION 50-402, IDAHO CODE, TO REVISE A
9 DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-405,
10 IDAHO CODE, TO REVISE PROVISIONS REGARDING WHEN CITY GENERAL ELECTIONS
11 SHALL BE HELD; AMENDING SECTION 50-707A, IDAHO CODE, TO REVISE PROVI-
12 SIONS REGARDING THE ELECTION OF CITY COUNCIL MEMBERS; AND DECLARING AN
13 EMERGENCY AND PROVIDING EFFECTIVE DATES.
14

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

16 SECTION 1. That Section 34-101, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 34-101. "GENERAL ELECTION" DEFINED -- OFFICES TO BE FILLED -- CON-
19 STITUTIONAL AMENDMENTS. (1) "General election" means the national, state,
20 city, and county election held on the first Tuesday succeeding the first
21 Monday of November in each even-numbered year.

22 (2) At these elections, there shall be chosen all congressional, state,
23 city, and county officers, including electors of president and ~~vice-presi-~~
24 dent vice president of the United States, as are by law to be elected in such
25 years.

26 (3) All amendments to the Idaho constitution shall be submitted to the
27 voters for their approval at these elections.

28 SECTION 2. That Section 34-106, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011,
31 notwithstanding any other provisions of the law to the contrary, there shall
32 be no more than two (2) elections conducted in any county in any calendar
33 year, except as provided in this section, and except that elections to fill
34 vacancies in the United States house of representatives shall be held as
35 provided in the governor's proclamation.

36 (1) The dates on which elections may be conducted are:

37 (a) The third Tuesday in May of each year; and

38 (b) The Tuesday following the first Monday in November of each year.

39 (c) In addition to the elections specified in paragraphs (a) and (b) of
40 this subsection and subsection (7) of this section, an emergency elec-

1 tion may be called upon motion of the governing board of a political sub-
2 division. An emergency exists when there is a great public calamity,
3 such as an extraordinary fire, flood, storm, epidemic, or other disas-
4 ter, or if it is necessary to do emergency work to prepare for a national
5 or local defense, or it is necessary to do emergency work to safeguard
6 life, health or property.

7 (d) In addition to the elections specified elsewhere in this section,
8 a presidential primary shall be held on the second Tuesday in March in
9 each presidential election year. Presidential primaries shall be held
10 separately from other primary elections, which shall be held on the
11 third Tuesday in May even in presidential election years.

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

15 (3) Candidates for office elected in November shall take office as
16 provided in the constitution, or on January 1⁷ next succeeding the November
17 election.

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

25 (5) The secretary of state is authorized to provide such assistance as
26 necessary, and to prescribe any needed rules or interpretations for the con-
27 duct of election authorized under the provisions of this section.

28 (6) Water districts governed by chapter 6, title 42, Idaho Code, are ex-
29 empt from the provisions of this section.

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

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

47 (9) Recall elections may be held on any of the four (4) dates authorized
48 in subsections (1) and (7) of this section that fall more than forty-five
49 (45) days after the clerk of the political subdivision orders that such elec-
50 tion shall be held.

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

6 SECTION 3. That Section 34-1801B, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 34-1801B. INITIATIVE AND REFERENDUM PROCEDURES FOR CITIES. Each city
9 shall allow direct legislation by the people through the initiative and refer-
10 endum. Cities shall follow the procedures set forth in this chapter sub-
11 ject to the following provisions:

12 (1) The city attorney shall perform the duties assigned to the attorney
13 general.

14 (2) The city clerk shall perform those duties assigned to the secretary
15 of state.

16 (3) City initiative and referendum elections shall be held on the Tues-
17 day following the first Monday in November in ~~odd~~ even-numbered years.

18 (4) An action brought pursuant to section 34-1809, Idaho Code, chal-
19 lenging the ballot title or short title shall be brought in the district
20 court in the county in which the city is located.

21 (5) Pursuant to section 34-1809, Idaho Code, the city attorney shall
22 prepare recommendations concerning revision of the initiative or referen-
23 dum, issue a certificate of review to the city clerk, and shall prepare the
24 ballot title and short title.

25 (6) To be eligible to sign a petition for city initiative or referen-
26 dum, a person shall be a qualified elector of the city at the time of signing
27 thereon.

28 (7) To perfect a petition for city initiative or referendum, the pe-
29 tition shall have signatures from at least twenty percent (20%) of the to-
30 tal number of qualified electors voting in the last general city election in
31 November of an odd-numbered year if the election is to be held in or before
32 November 2024. If the election is to be held in November of 2026 or later, the
33 petition shall have signatures from at least twenty percent (20%) of the to-
34 tal number of qualified electors voting in the last general city election in
35 November of an even-numbered year.

36 (8) The provisions of section 34-1805, Idaho Code, relating to the num-
37 ber of required signatures and geographic distribution of signatures shall
38 not apply to city initiative or referendum.

39 (9) Any person who circulates a petition for city initiative or refer-
40 endum shall be a resident of the state of Idaho and at least eighteen (18)
41 years of age, and, pursuant to section 34-1807, Idaho Code, shall certify
42 their belief that each signer of the petition is a qualified elector of the
43 state of Idaho and the city.

44 (10) A copy of all petitions and signature sheets shall be kept by the
45 city clerk as a public record.

46 (11) The prospective petition for referendum, as provided by section
47 34-1804, Idaho Code, shall be filed not more than sixty (60) days following
48 publication of the adopted ordinance as provided by section 50-901, Idaho
49 Code.

1 (12) The deadline for submission of signatures to the city clerk is one
2 hundred eighty (180) days after the petitioners for initiative or referendum
3 receive the official ballot title from the city clerk, or April 30 of the year
4 of the initiative or referendum election, whichever is earlier.

5 (13) Petitioners must submit the signed initiative or referendum peti-
6 tions to the county clerk for verification not later than the close of busi-
7 ness on the first day of May in the year of the initiative or referendum elec-
8 tion, or one hundred eighty (180) days after the petitioners receive the of-
9 ficial ballot title from the city clerk, whichever is earlier.

10 (14) The county clerk has sixty (60) calendar days to verify the signa-
11 tures as provided in subsection (3) of section 34-1802, Idaho Code.

12 (15) The city council shall have the option to adopt the ordinance pro-
13 posed by initiative within thirty (30) days after the notification pursuant
14 to section 34-1807, Idaho Code, provided that the petition has the required
15 number of signatures. The city council shall hold a public hearing on the
16 proposed ordinance within the thirty (30) day period, preceded by legal no-
17 tice published once in the official city newspaper at least seven (7) days
18 preceding the hearing. If the ordinance is not adopted by the council by the
19 end of the thirty (30) day period, the initiative shall be put on the ballot.

20 (16) As provided by sections 34-1812A through 34-1812C, Idaho Code, a
21 voters' pamphlet shall be prepared by the city clerk.

22 (17) To be passed into law, an initiative or referendum shall be ap-
23 proved by a majority of the votes cast on the measure.

24 (18) The mayor shall issue the proclamation provided by section
25 34-1813, Idaho Code.

26 (19) The city clerk shall publish an ordinance adopted by initiative or
27 referendum within thirty (30) days after the proclamation by the mayor pro-
28 vided in subsection (18) of this section.

29 (20) All city ordinances setting forth procedures for initiative or
30 referendum are void on July 1, 2015.

31 (21) This section does not apply to bond elections.

32 (22) This section does not apply to any local zoning legislation includ-
33 ing, but not limited to, ordinances required or authorized pursuant to chap-
34 ter 65, title 67, Idaho Code.

35 SECTION 4. That Section 50-402, Idaho Code, be, and the same is hereby
36 amended to read as follows:

37 50-402. DEFINITIONS. The following words and phrases, when used in
38 this chapter, have the meanings respectively given herein.

39 (a) General election. "General election" means the election held on
40 the first Tuesday succeeding the first Monday in November in each ~~odd~~ even-
41 numbered year at which there shall be chosen all mayors and councilmen as are
42 by law to be elected in such years.

43 (b) Special election. "Special election" means any election other than
44 a general election held at any time for any purpose provided by law.

45 (c) Qualified elector. A "qualified elector" means any person who is
46 at least eighteen (18) years of age, is a United States citizen and who has
47 resided in the city at least thirty (30) days next preceding the election at
48 which he desires to vote and who is registered within the time period pro-
49 vided by law. A "qualified elector" shall also mean any person who is at

1 least eighteen (18) years of age, is a United States citizen, who is a regis-
 2 tered voter, and who resides in an area that the city has annexed pursuant to
 3 chapter 2, title 50, Idaho Code, within thirty (30) days of a city election.

4 (d) Residence.

5 (1) "Residence," for voting purposes, shall be the principal or pri-
 6 mary home or place of abode of a person. Principal or primary home or
 7 place of abode is that home or place in which his habitation is fixed and
 8 to which a person, whenever he is absent, has the present intention of
 9 returning after a departure or absence therefrom, regardless of the du-
 10 ration of absence. In determining what is a principal or primary place
 11 of abode of a person, the following circumstances relating to such per-
 12 son may be taken into account: business pursuits, employment, income
 13 sources, residence for income or other tax pursuits, residence of par-
 14 ents, spouse, and children, if any, leaseholds, situs of personal and
 15 real property, and motor vehicle registration.

16 (2) A qualified elector shall not be considered to have gained resi-
 17 dence in any city of this state into which he comes for temporary pur-
 18 poses only without the intention of making it his home but with the in-
 19 tention of leaving it when he has accomplished the purpose that brought
 20 him there.

21 (3) A qualified elector who has left his home and gone to another area
 22 outside the city, for a temporary purpose only, shall not be considered
 23 to have lost his residence.

24 (4) If a qualified elector moves outside the city, with the intentions
 25 of making it his permanent home, he shall be considered to have lost his
 26 residence in the city.

27 (e) Election official. "Election official" means the city clerk, reg-
 28 istrar, judge of election, clerk of election, or county clerk engaged in the
 29 performance of election duties.

30 (f) Reference to male. All references to the male elector and male city
 31 officials include the female elector and female city officials, and the mas-
 32 culine pronoun includes the feminine.

33 (g) Computation of time. Calendar days shall be used in all computa-
 34 tions of time made under the provisions of this chapter. In computing time
 35 for any act to be done before any election, the first day shall be included
 36 and the last, or election day, shall be excluded. Saturdays, Sundays and le-
 37 gal holidays shall be included, but, if the time for any act to be done shall
 38 fall on Saturday, Sunday or a legal holiday, such act shall be done upon the
 39 day following each Saturday, Sunday or legal holiday.

40 SECTION 5. That Section 50-405, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 50-405. GENERAL AND SPECIAL CITY ELECTIONS.

43 (1) (a) A general election shall be held in each city governed by this
 44 title, for officials as in this title provided, on the Tuesday following
 45 the first Monday of November in each odd-numbered year- until 2024,
 46 when city officials shall be elected at a general election held on the
 47 Tuesday following the first Monday of November in even-numbered years.
 48 The transition for cities holding city council member elections by
 49 district shall be governed by the provisions of section 50-707A, Idaho

1 Code. The transition for all city mayors and for cities holding city
2 council member elections at large shall be governed by the provisions
3 of this subsection, notwithstanding any other provision of law to the
4 contrary:

5 (i) Any city official elected at the 2021 election shall serve a
6 term of three (3) years.

7 (ii) Any city official elected at the 2023 election shall serve a
8 term of three (3) years.

9 (iii) The normal terms of office, as appropriate under applicable
10 law, shall resume for any city official elected at the 2024 elec-
11 tion and each election thereafter.

12 (b) All such officials shall be elected and hold their respective of-
13 fices for the term specified and until their successors are elected and
14 qualified. All other city elections that may be held under authority of
15 general law shall be known as special city elections.

16 (2) (a) No city election shall be held for an office if, after the dead-
17 line for filing a declaration of intent to be a write-in candidate for
18 the office, it appears:

19 (i) For the office of mayor, only one (1) person has filed a dec-
20 laration of candidacy or a declaration of intent to be a write-in
21 candidate;

22 (ii) For the office of city council member in cities that have es-
23 tablished designated seats, as provided in section 50-707, Idaho
24 Code, only one (1) person has filed a declaration of candidacy or a
25 declaration of intent to be a write-in candidate for a particular
26 seat up for election for a two (2) year term or a four (4) year term;
27 or

28 (iii) For the office of city council member in cities that do not
29 have designated council seats as provided in section 50-707, Idaho
30 Code, the number of people who have filed a declaration of candi-
31 dacy or a declaration of intent to be a write-in candidate is equal
32 to or fewer than the number of council positions up for election
33 for a two (2) year term or a four (4) year term.

34 (b) If the provisions of paragraph (a) of this subsection have been
35 met, the city clerk shall declare such candidate elected. The candidate
36 shall receive a certificate of election and be installed at the first
37 city council meeting in January following the election.

38 (3) On and after January 1, 2011, notwithstanding any other provisions
39 of law to the contrary, there shall be no more than two (2) elections con-
40 ducted in any city in any calendar year, except as provided in this section.

41 (4) The dates on which elections may be conducted are:

42 (a) The third Tuesday in May of each year; and

43 (b) The Tuesday following the first Monday in November of each year.

44 (c) In addition to the elections specified in paragraphs (a) and (b) of
45 this subsection, an emergency election may be called upon motion of the
46 city council of a city. An emergency exists when there is a great pub-
47 lic calamity, such as an extraordinary fire, flood, storm, epidemic or
48 other disaster, or if it is necessary to do emergency work to prepare for
49 a national or local defense, or if it is necessary to do emergency work
50 to safeguard life, health or property.

1 (5) Pursuant to section 34-1401, Idaho Code, all city elections shall
2 be conducted by the county clerk of the county wherein the city lies, and
3 elections shall be administered in accordance with the provisions of title
4 34, Idaho Code, except as those provisions are specifically modified by the
5 provisions of this chapter. After an election has been ordered, all expenses
6 associated with conducting city general and special elections shall be paid
7 from the county election fund as provided by section 34-1411, Idaho Code.
8 Expenses associated with conducting runoff elections shall be paid by the
9 city adopting runoff elections pursuant to the provisions of section 50-612
10 or 50-707B, Idaho Code, or both.

11 (6) The secretary of state is authorized to provide such assistance as
12 necessary and to prescribe any needed rules or interpretations for the con-
13 duct of elections authorized under the provisions of this section.

14 SECTION 6. That Section 50-707A, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 50-707A. ELECTION OF COUNCILMEN BY DISTRICTS. (1) Any city having
17 fewer than one hundred thousand (100,000) inhabitants based upon the most
18 recent federal decennial census may, by ordinance, provide for districts
19 and the election of councilmen by districts. Upon the adoption of such an
20 ordinance and at least one hundred twenty (120) days prior to each general
21 election, the governing body of the city shall establish the territory of
22 council districts in accordance with this section. Any city having more
23 than one hundred thousand (100,000) inhabitants based upon the most recent
24 federal decennial census shall establish districts and shall elect coun-
25 cilmen by such districts for districts so established. Districts shall be
26 established no later than one hundred twenty (120) days prior to the general
27 election following the date that election precincts are established pur-
28 suant to the provisions of section 34-301, Idaho Code.

29 (2) Each district shall consist of one (1) or more contiguous election
30 precincts as established pursuant to the provisions of chapter 3, title 34,
31 Idaho Code, and each district shall, to the nearest extent possible, contain
32 the same ~~number of people~~ population based upon the most recent federal de-
33 cennial census, with a maximum ten percent (10%) variance between the least
34 populated district and the most populated district.

35 (3) Each city establishing districts for the election of councilmen by
36 districts shall establish the number of districts corresponding to the num-
37 ber of council seats determined by the city pursuant to section 50-701, Idaho
38 Code, or for any city having a governing body governed by the provisions of
39 sections 50-801 through 50-812, Idaho Code, the number of council seats de-
40 termined by the city pursuant to section 50-805, Idaho Code.

41 (4) Districts will be drawn by a committee as established by ordinance.
42 The county clerk or designee shall be a nonvoting ex officio member to as-
43 sist the committee with regard to precincts, boundaries, and any other dis-
44 tricting issues. Districts must be compact. No shoestring districts or dis-
45 tricts drawn to protect incumbents are permitted. Districts must be redrawn
46 every ten (10) years following the decennial census. If a city's boundaries
47 change in the interim, the new territory must be joined to a contiguous dis-
48 trict. If two (2) districts are contiguous to the new territory, the ter-
49 ritory must be added to the district with the lower population, unless to do

1 so would result in a population variance greater than ten percent (10%). In
2 such a case, or if the districts are of equal population, the new territory
3 may be split evenly by population between the two (2) contiguous districts.
4 All proceedings of the committee must comply with the open meetings law set
5 forth in chapter 2, title 74, Idaho Code. All draft maps, memoranda, and
6 other records of the committee are public records subject to chapter 1, ti-
7 tle 74, Idaho Code.

8 (5) Upon establishment of city election districts, council members are
9 to be elected by the electors of the said geographic district, and any can-
10 didate must be a resident of said geographic district. For cities with fewer
11 than one hundred thousand (100,000) inhabitants that establish districts by
12 ordinance, the council shall determine, not less than ninety (90) days be-
13 fore the next general election, the method of the implementation of this or-
14 dinance.

15 (6) Any city transitioning from at-large elections to elections by dis-
16 trict shall be governed by the following provisions:

17 (a) For the 2021 election of city council members, elections may con-
18 tinue to be at large, but members shall be elected for a two (2) year term
19 only.

20 (b) Districts shall be established using the 2020 federal decennial
21 census data at least one hundred twenty (120) days prior to the general
22 election held in 2023.

23 (c) For the 2023 election of city council members, all council member
24 seats shall be open for election, using the new districts established
25 under paragraph (b) of this subsection. In order to implement alter-
26 nating terms, members elected to odd-numbered districts in 2023 shall
27 be elected for a one (1) year term and members elected to even-numbered
28 districts in 2023 shall be elected for a three (3) year term. In 2024 and
29 thereafter, city council elections shall be held in even-numbered years
30 and the usual terms of office shall resume, as appropriate under appli-
31 cable law.

32 (d) Following any subsequent redistricting of city council district
33 boundaries, any sitting council member shall be permitted to serve the
34 remainder of his term in order to preserve the staggering of terms. A
35 council member is not permitted to run for reelection to a district seat
36 in which the member is not a resident.

37 SECTION 7. An emergency existing therefor, which emergency is hereby
38 declared to exist, Sections 5 and 6 of this act shall be in full force and ef-
39 fect on and after passage and approval. Sections 1, 2, 3, and 4 of this act
40 shall be in full force and effect on and after January 1, 2024.