

IN THE SENATE

SENATE BILL NO. 1061

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-106, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING CERTAIN ELECTION DEADLINES; AMENDING SECTION 34-116,
3 IDAHO CODE, TO REVISE PROVISIONS REGARDING COMPUTATION OF TIME; AMEND-
4 ING SECTION 34-715, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN
5 ELECTION DEADLINES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION
6 34-717, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN ELECTION
7 DEADLINES; AND AMENDING SECTION 34-1707, IDAHO CODE, TO REVISE PROVI-
8 SIONS REGARDING DUTIES RELATED TO THE RECALL OF AN OFFICER.
9

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

11 SECTION 1. That Section 34-106, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011,
14 notwithstanding any other provisions of the law to the contrary, there shall
15 be no more than two (2) elections conducted in any county in any calendar
16 year, except as provided in this section, and except that elections to fill
17 vacancies in the United States house of representatives shall be held as
18 provided in the governor's proclamation.

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

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

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

22 (c) In addition to the elections specified in paragraphs (a) and (b) of
23 this subsection and subsection (7) of this section, an emergency elec-
24 tion may be called upon motion of the governing board of a political sub-
25 division. An emergency exists when there is a great public calamity,
26 such as an extraordinary fire, flood, storm, epidemic, or other disas-
27 ter, or if it is necessary to do emergency work to prepare for a national
28 or local defense, or it is necessary to do emergency work to safeguard
29 life, health or property.

30 (d) In addition to the elections specified elsewhere in this section,
31 a presidential primary shall be held on the second Tuesday in March in
32 each presidential election year. Presidential primaries shall be held
33 separately from other primary elections, which shall be held on the
34 third Tuesday in May even in presidential election years.

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

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

41 (4) The governing board of each political subdivision subject to the
42 provisions of this section, which, prior to January 1, 2011, conducted an

1 election for members of that governing board on a date other than a date per-
 2 mitted in subsection (1) of this section, shall establish as the election
 3 date for that political subdivision the date authorized in subsection (1) of
 4 this section which falls nearest the date on which elections were previously
 5 conducted, unless another date is established by law.

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

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

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

16 (8) A city initiative or referendum election shall be held on the Tues-
 17 day following the first Monday in November of odd-numbered years. A county
 18 initiative or referendum election or a bond, levy and any other ballot ques-
 19 tion elections conducted by any political subdivision shall be held on the
 20 nearest date authorized in subsection (1) of this section which falls more
 21 than sixty (60) days after the clerk of the political subdivision orders that
 22 such election shall be held in May or November of even-numbered years, or in
 23 March of a presidential election year, or more than fifty (50) days after
 24 the order for all other elections, unless otherwise provided by law. Bal-
 25 lot language for any question to be placed on the ballot shall be submitted
 26 to the county clerk at least sixty (60) days before an election held in May or
 27 November of even-numbered years and at least fifty (50) days before all other
 28 elections.

29 (9) Recall elections may be held on any of the four (4) dates authorized
 30 in subsections (1) and (7) of this section that fall more than ~~forty-five~~
 31 sixty (4560) days after the clerk of the political subdivision orders that
 32 such election shall be held in May or November of even-numbered years or in
 33 March of a presidential election year, or more than fifty (50) days after the
 34 order for all other elections.

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

40 SECTION 2. That Section 34-116, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 34-116. CALENDAR DAYS USED IN COMPUTATION OF TIME. Calendar days shall
 43 be used in all computations of time made under the provisions of this act. In
 44 computing time for any act to be done before any election, the first day shall
 45 be included and the last, or election day, shall be excluded. Sundays, Sat-
 46 urdays, and legal holidays shall be included, but if the time for any act to
 47 be done, including any specified day of a month, shall fall on Sunday, Sat-
 48 urday, or a legal holiday, such act shall be done upon the day following such
 49 Sunday, Saturday, or legal holiday.

1 SECTION 3. That Section 34-715, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 34-715. FILLING OF VACANCIES OCCURRING BEFORE OR AFTER PRIMARY ELEC-
4 TION. (1) Vacancies that occur during the ten (10) day period before a pri-
5 mary election, or after the primary election but at least ~~ten~~ fifty (~~10~~50)
6 days before the general election in the slate of candidates of any political
7 party, except candidates for precinct committeeman, shall be filled in the
8 following manner:

9 (1a) By the county central committee if it is a vacancy by a candidate
10 for a county office.

11 (2b) By the legislative district central committee if it is a vacancy by
12 a candidate for the state legislature.

13 (3c) By the state central committee if it is a vacancy by a candidate for
14 a federal or a state office.

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

19 (3) Any political party candidate so appointed by the proper central
20 committee must, in order to have his name on the general ballot, file a decla-
21 ration of candidacy and pay the required filing fee.

22 (4) Vacancies that occur in a slate of candidates for precinct com-
23 mitteeman within ten (10) days prior to the primary election shall not be
24 filled.

25 SECTION 4. That Section 34-717, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 34-717. WITHDRAWAL OF CANDIDACY. (1) A candidate for nomination or
28 candidate for election to a partisan office may withdraw from the election
29 by filing a notarized statement of withdrawal with the officer with whom his
30 declaration of candidacy was filed. The statement must contain all informa-
31 tion necessary to identify the candidate and the office sought and the reason
32 for withdrawal. The filing officer shall immediately notify the proper
33 central committee of the party, if any, of the individual withdrawing. A
34 candidate may not withdraw later than ~~forty-five~~ fifty (~~45~~50) days before an
35 election, except in the case of a primary election, when the deadline shall
36 be no later than the eighth Friday preceding the primary election, or a gen-
37 eral election, when the deadline shall be no later than September 7~~1~~. Filing
38 fees paid by the candidate shall not be refunded.

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

42 SECTION 5. That Section 34-1707, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIG-
45 NATION -- SPECIAL ELECTION. (1) In the event that a petition filed with the
46 secretary of state is found by the secretary of state to contain the required

1 number of certified signatures, the secretary of state shall promptly pro-
2 vide written notice to the officer being recalled and the petitioner that the
3 recall petition is in proper form. If the officer being recalled is the sec-
4 retary of state, the governor shall also be notified.

5 (a) If the officer being recalled resigns his office within five (5)
6 business days after notice from the secretary of state, his resignation
7 shall be accepted and the resignation shall take effect on the day it is
8 offered, and the vacancy shall be filled as provided by law.

9 (b) If the officer being recalled does not resign his office within five
10 (5) business days after notice from the secretary of state, the officer
11 being recalled shall file on said fifth business day the justification
12 statement required by section 34-1708, Idaho Code, with the secretary
13 of state, and a special election shall be ordered by the secretary of
14 state, unless he is the officer being recalled, in which event the gov-
15 ernor shall order such special election. The special election must be
16 held on the date prescribed in section 34-106, Idaho Code. If the offi-
17 cer being recalled is one (1) specified in section 34-1701(1) (a), Idaho
18 Code, the special election shall be conducted statewide. If the offi-
19 cer being recalled is one (1) specified in section 34-1701(1) (b), Idaho
20 Code, the special election shall be conducted only in the legislative
21 district.

22 (2) In the event that a petition filed with the county clerk is found
23 by the county clerk to contain the required number of certified signatures,
24 the county clerk shall promptly provide written notice to the officer being
25 recalled and the petitioner that the recall petition is in proper form. If
26 the officer being recalled is the county clerk, the secretary of state shall
27 also be notified.

28 (a) If the officer being recalled resigns his office within five (5)
29 business days after notice from the county clerk, his resignation shall
30 be accepted and the resignation shall take effect on the day it is of-
31 fered, and the vacancy shall be filled as provided by law.

32 (b) If the officer being recalled does not resign his office within five
33 (5) business days after notice from the county clerk, the officer being
34 recalled shall file on said fifth business day the justification state-
35 ment required by section 34-1708, Idaho Code, with the county clerk,
36 and a special election shall be ordered by the county clerk, unless the
37 county clerk is the officer being recalled, in which event the secretary
38 of state shall order the special election. The special election must be
39 held on the date prescribed in section 34-106, Idaho Code. The special
40 election shall be conducted countywide.

41 (3) In the event that a petition filed with the county clerk concerning
42 the recall of an official of a local government office is found by the county
43 clerk to contain the required number of certified signatures, the county
44 clerk shall promptly provide written notice to the officer being recalled,
45 the petitioner, and the governing board responsible for the local government
46 official, if any, that the recall petition is in proper form.

47 (a) If the officer being recalled resigns his office within five (5)
48 business days after notice from the county clerk, his resignation shall
49 be accepted and the resignation shall take effect on the day it is of-
50 fered, and the vacancy shall be filled as provided by law.

1 (b) If the officer being recalled does not resign his office within five
2 (5) business days after notice from the county clerk, the officer being
3 recalled shall file on said fifth business day the justification state-
4 ment required by section 34-1708, Idaho Code, with the county clerk, and
5 a special election shall be ordered by the county clerk. The special
6 election must be held on the date prescribed in section 34-106, Idaho
7 Code. The election shall be conducted by the county clerk in the manner
8 provided in section 34-1401, Idaho Code.

9 (4) In the event that a petition is found not to have the required number
10 of signatures, the officer shall continue in office and no new recall peti-
11 tion may be circulated for a period of ninety (90) days against the same offi-
12 cer.