

TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 17
COUNTY HIGHWAY REORGANIZATION

40-1701. LEGISLATIVE INTENT. It is the intent of the legislature in amending this chapter to declare that it is necessary in the further promotion, regulation, control and administration of the secondary highways within the state of Idaho for the electorate to adopt a secondary highway system at the county level and for the elimination of impractical and uneconomical units and still maintain the element of home rule and administration of secondary highways within the various county and highway district systems exclusive of the state highway system.

[40-1701, added 1998, ch. 415, sec. 1, p. 1308.]

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.

[(40-1702) 40-1701, added 1985, ch. 253, sec. 2, p. 674; am. and redesign. 1998, ch. 415, sec. 2, p. 1308; am. 2009, ch. 341, sec. 93, p. 1046.]

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.

[(40-1703) 40-1702, added 1985, ch. 253, sec. 2, p. 675; am. and re-desig. 1998, ch. 415, sec. 3, p. 1309.]

40-1704. DISTRICTS TO BE ECONOMICALLY WORKABLE. Highway districts organized or consolidated from existing highway districts and areas served by a county road department, where applicable, under the provisions of this chapter shall consist of areas having sufficient mileage, equipment, resources, valuation and budget to be considered economically workable. The county commissioners shall organize the district(s) with regard to geographical locations for the most efficient operation.

[(40-1704) 40-1703, added 1985, ch. 253, sec. 2, p. 675; am. and re-desig. 1998, ch. 415, sec. 4, p. 1310.]

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

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

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

(4) Where a countywide highway district, new highway district, or consolidated or enlarged district results from an election under this chapter, it shall be the duty of the governor, in the appointment of the original highway commissioners for the county, where there shall have been in existence at the time of the creation of any highway districts within the limits of the county to appoint whenever practicable, the existing highway commissioners

as they shall qualify by residence in the territorial limits of the districts of the newly created highway district as a highway commissioner of the newly created highway district system. County commissioners, city mayors and city council members shall not be eligible to hold office as a highway district commissioner.

[(40-1705) 40-1704, added 1985, ch. 253, sec. 2, p. 675; am. and re-desig. 1998, ch. 415, sec. 5, p. 1310.]

40-1706. ADJUSTMENT OF HIGHWAY DISTRICT BORDERS -- NOTICE -- HEARING -- DECISION OF COMMISSIONERS -- APPEAL. In areas where more than one (1) highway district exists and the highway districts were organized under the provisions of this chapter, the commissioners shall have the duty and obligation from time to time as shall be practical and for the best interests of the countywide administration of the secondary highway systems, to adjust the borders of the highway districts coexisting in the county as shall most equitably and economically permit the administration, operation and construction of the secondary highway system within the county. Notice of a proposal to change the boundaries of the highway districts within the county shall be given by the commissioners through the county clerk to the districts affected and notice shall be published in accordance with the provisions of section [40-206](#), Idaho Code. At the hearing any person objecting may be heard in opposition, and upon the closing of the hearing, the commissioners shall within ten (10) days after the hearing, notify the districts affected of their decision, and any district aggrieved by the decision shall have the right through its highway commissioners to appeal the decision directly to the district court of the county in which the district lies. Matters referred to the district court on appeal shall be submitted by petition for hearing within twenty (20) days of the announcement of the decision of the commissioners and the matter disposed of by the district court by reversal or approval. Failure to diligently prosecute the matter before the district court shall justify the district court in dismissing the appeal without hearing.

[(40-1706) 40-1705, added 1985, ch. 253, sec. 2, p. 676; am. and re-desig. 1998, ch. 415, sec. 6, p. 1311.]

40-1709. INVENTORY AND FINANCIAL STATEMENT OF DISSOLVED DISTRICT -- DISPOSITION OF PROPERTY AND OBLIGATIONS OF DISSOLVED DISTRICT AND COUNTY ROAD DEPARTMENTS. (1) Upon an election being held under the provisions of this chapter and an option being chosen, all affected highway districts and the county road department, where applicable, shall prepare and file with the county commissioners an inventory of all machinery, buildings, lands and property of every kind and nature and financial statement not later than ten (10) days subsequent to the canvass of the election.

(2) Title to all machinery, buildings, lands and property of every kind and nature, belonging to each affected highway jurisdiction shall immediately upon the dissolution of the district and county road department without further conveyance, be vested in the county commissioners as custodians and be delivered to the succeeding operational unit as soon as practicable. The succeeding unit shall be liable for any and all unliquidated obligations of the dissolved highway districts and county road department.

[40-1709, added 1985, ch. 253, sec. 2, p. 677; am. 1998, ch. 415, sec. 8, p. 1311.]

40-1712. HIGHWAY STUDY COMMISSION -- ESTABLISHMENT -- MEMBERSHIP. In each county required to conduct an election under the provisions of section [40-1702](#), Idaho Code, there shall be established a local highway study commission. The local highway study commission in each county shall be composed as follows:

(1) One (1) member shall be appointed by the highway district commissioners of each highway district within the county;

(2) The mayor of the city with the largest population within the county shall appoint one (1) member;

(3) The chairman of the county commissioners shall appoint a county commissioner as one (1) member and that member will serve as chairman of the commission.

[40-1712, added 1985, ch. 253, sec. 2, p. 677; am. 1998, ch. 415, sec. 9, p. 1312.]

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.

[40-1713, added 1985, ch. 253, sec. 2, p. 678; am. 1998, ch. 415, sec. 10, p. 1312.]

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.

[40-1714, added 1998, ch. 415, sec. 11, p. 1313; am. 2009, ch. 341, sec. 94, p. 1047.]