

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 632

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO CONSOLIDATION OF ELECTIONS; AMENDING SECTION 31-1410, IDAHO
2 CODE, AS AMENDED BY SECTION 18, CHAPTER 341, LAWS OF 2009, TO REVISE
3 PROVISIONS FOR ELECTION OF FIRE PROTECTION DISTRICT COMMISSIONERS;
4 AMENDING SECTION 33-503A, IDAHO CODE, AS ADDED BY SECTION 41, CHAPTER
5 341, LAWS OF 2009, TO REVISE PROVISIONS RELATING TO TRANSITION OF SCHOOL
6 TRUSTEE TERMS FROM THREE YEARS TO FOUR YEARS; REPEALING SECTION 50,
7 CHAPTER 341, LAWS OF 2009, RELATING TO COMMUNITY COLLEGE DISTRICTS;
8 AMENDING SECTION 33-2715, IDAHO CODE, AS AMENDED BY SECTION 52, CHAPTER
9 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTION OF BOARD OF
10 TRUSTEES OF LIBRARY DISTRICTS; AMENDING SECTION 34-106, IDAHO CODE, AS
11 AMENDED BY SECTION 55, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS
12 RELATING TO LIMITATION UPON ELECTIONS; AMENDING SECTION 34-731, IDAHO
13 CODE, TO REVISE PROVISIONS RELATING TO THE PRESIDENTIAL PREFERENCE
14 VOTE; AMENDING SECTION 34-732, IDAHO CODE, TO REVISE PROVISIONS FOR
15 SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL PRIMARY;
16 AMENDING SECTION 34-1401, IDAHO CODE, AS AMENDED BY SECTION 59, CHAPTER
17 341, LAWS OF 2009, TO REVISE ELECTION ADMINISTRATION PROVISIONS;
18 AMENDING SECTION 34-1404, IDAHO CODE, AS AMENDED BY SECTION 60, CHAPTER
19 341, LAWS OF 2009, TO REVISE DECLARATION OF CANDIDACY PROVISIONS;
20 AMENDING SECTION 34-1408, IDAHO CODE, TO REVISE ABSENTEE BALLOT
21 PROVISIONS; AMENDING SECTION 34-1410, IDAHO CODE, TO REVISE PROVISIONS
22 RELATING TO CANVASSING OF ELECTION RESULTS; AMENDING SECTION 40-1305,
23 IDAHO CODE, AS AMENDED BY SECTION 75, CHAPTER 341, LAWS OF 2009, TO
24 REVISE PROVISIONS FOR ELECTION OF HIGHWAY COMMISSIONERS; AMENDING
25 SECTION 42-3207, IDAHO CODE, TO REVISE PROVISIONS FOR ELECTION AND
26 ORGANIZATION OF A WATER AND SEWER DISTRICT AND TO MAKE A TECHNICAL
27 CORRECTION; AMENDING SECTION 42-3211, IDAHO CODE, AS AMENDED BY SECTION
28 100, CHAPTER 341, LAWS OF 2009, TO REVISE PROVISIONS FOR ELECTIONS IN
29 WATER AND SEWER DISTRICTS; AMENDING SECTION 161, CHAPTER 341, LAWS OF
30 2009, TO REVISE EFFECTIVE DATES; DECLARING AN EMERGENCY, PROVIDING
31 RETROACTIVE APPLICATION AND PROVIDING EFFECTIVE DATES.
32

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

34 SECTION 1. That Section 31-1410, Idaho Code, as amended by Section
35 18, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
36 follows:

37 31-1410. ELECTION OF COMMISSIONERS. (1) On the first Tuesday
38 following the first Monday of November, of the next odd-numbered year,
39 following the organization of a fire protection district, three (3) fire
40 protection district commissioners shall be elected. Every odd-numbered
41 year thereafter, ~~one (1) commissioner shall be elected, except for the~~
42 ~~fourth year when no election of a fire commissioner shall occur unless a~~

1 ~~fire protection district has voted to increase the size of its board in~~
2 ~~accordance with section 31-1410A, Idaho Code~~ an election shall be held for
3 the election of fire district commissioners as described in this section.
4 For commissioners whose offices expire in 2012 and in any even-numbered
5 year, such commissioners shall remain in office until the next election
6 in an odd-numbered year. The county clerk shall have power to make such
7 regulations for the conduct of such election as are consistent with the
8 statutory provisions of chapter 14, title 34, Idaho Code. ~~The county clerk~~
9 At their meeting next preceding such election, the board of fire district
10 commissioners shall divide the district into three (3) subdistricts
11 as nearly equal in population, area and mileage as practicable, to be
12 known as fire protection commissioners subdistricts one, two and three.
13 Thereafter, the ~~county clerk~~ board of fire district commissioners may revise
14 subdistricts when ~~he~~ it deems it necessary due to significant shifts in
15 population. Provided however, of the commissioners comprising the board,
16 not more than one (1) commissioner shall be an elector of the same fire
17 protection commissioners subdistrict. The revision of subdistricts shall
18 not disqualify any elected commissioner from the completion of the term
19 for which he or she has been duly elected. At the first election following
20 organization of a fire protection district, the commissioner from fire
21 protection subdistrict one shall be elected to a term of ~~one (1) year~~ two (2)
22 years, the commissioner from subdistricts ~~two and three~~ shall be elected to
23 a term of ~~two (2)~~ four (4) years, and the commissioner from fire protection
24 subdistrict three shall be elected to a term of ~~three (3) years~~; thereafter
25 the term of office of all commissioners shall be four (4) years. Such
26 elections and all other elections held under this law, shall be held in
27 conformity with the general laws of the state including chapter 14, title 34,
28 Idaho Code.

29 (2) ~~Upon the unanimous agreement of the existing board of~~
30 ~~commissioners, a~~ A fire protection district whose terms and elections were
31 established by prior law ~~may elect to~~ shall convert to the election of
32 commissioners as provided in subsection (1) of this section. ~~A fire district~~
33 ~~may adopt any conversion schedule reflecting the intent of the schedule~~
34 ~~provided in subsection (1) of this section, so long as one (1) commissioner~~
35 ~~is elected each year, except for the fourth year when no election shall be~~
36 ~~held. The conversion schedule shall not result in the extension of the term~~
37 ~~of office of any commissioner serving at the time of the conversion.~~

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

46 The results of any election for fire protection district commissioner
47 shall be certified by the county clerk of the county or counties of the
48 district and the results reported to the district.

1 SECTION 2. That Section 33-503A, Idaho Code, as added by Section 41,
2 Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
3 follows:

4 33-503A. TRANSITION OF SCHOOL TRUSTEE TERMS FROM THREE YEARS TO FOUR
5 YEARS. In order to achieve an orderly transition to terms of four (4) years,
6 and to hold trustee elections in the odd-numbered years, the following
7 schedule shall be followed:

8 (1) For school districts with five (5) trustees:

9 (a) If two (2) trustees were elected to a regular trustee term in 2007,
10 and one (1) trustee was elected to a regular term in 2008, then these
11 three (3) trustees shall each serve a term that expires on July 1, 2011,
12 and the trustees elected to a regular trustee term in 2009 shall each
13 serve a term that expires on July 1, 2013.

14 (b) If two (2) trustees were elected to regular trustee terms in 2007,
15 and two (2) trustees were elected to regular trustee terms in 2008, then
16 those trustees elected in 2007 shall each serve a term that expires on
17 July 1, 2011, and those elected in 2008 shall each serve a term that
18 expires on July 1, 2013, and the trustee elected to a regular trustee
19 term in 2009 shall serve a term that expires on July 1, 2013.

20 (c) If one (1) trustee was elected to a regular trustee term in 2007, the
21 trustee shall serve a term that expires on July 1, 2011, and the trustees
22 elected to a regular trustee term in 2008 shall each serve a term that
23 expires on July 1, 2013.

24 (2) For school districts with six (6) trustees, two (2) trustees
25 elected to a regular term in 2007 shall each serve a term that expires on July
26 1, 2011, and two (2) trustees elected to a regular term in 2009 shall each
27 serve a term that expires on July 1, 2013, and one (1) of the trustees elected
28 to a regular term in 2008 shall serve until July 1, 2011, and one (1) of the
29 trustees elected to a regular term in 2008 shall serve until July 1, 2013,
30 which shall be determined by the toss of a coin.

31 (3) For school districts with seven (7) trustees, ~~three (3)~~ two (2)
32 trustees elected to a regular term in 2008 or 2009 shall each serve until
33 July 1, 2011, and any remainder of the trustees elected in 2008 or 2009 shall
34 serve until July 1, 2013, which shall be determined by the toss of a coin; and
35 trustees elected to a regular term in 2010 shall serve until July 1, 2013.

36 (4) For elementary school districts with three (3) trustees, two (2)
37 trustees elected to a regular term in 2007 and 2008 shall serve until July 1,
38 2011, and one (1) trustee elected to a regular term in 2009 shall serve until
39 July 1, 2013.

40 SECTION 3. That Section 50, Chapter 341, Laws of 2009, be, and the same
41 is hereby repealed.

42 SECTION 4. That Section 33-2715, Idaho Code, as amended by Section
43 52, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
44 follows:

45 33-2715. BOARD OF TRUSTEES -- SELECTION -- NUMBER -- QUALIFICATIONS --
46 TERM -- OATH -- APPOINTMENT OF FIRST BOARD. (1) Each library district shall
47 be governed by a board of trustees of five (5) members elected or appointed

1 as provided by law, who at the time of their selection and during their terms
2 of office shall be qualified electors of the district and if trustee zones
3 have been established under section 33-2718, Idaho Code, shall be a resident
4 of the trustee zone. Trustees shall be elected at each trustee election,
5 held on the uniform election date in May. The regular term of a trustee
6 shall be for six (6) years, or until his successor has been elected and
7 qualified. Within ten (10) days after his appointment an appointed trustee
8 shall qualify and assume the duties of his office. An elected trustee shall
9 qualify and assume the duties of his office at the annual meeting. All
10 trustees qualify by taking the oath of office required of state officers, to
11 be administered by one (1) of the present trustees or by a trustee retiring.

12 (2) Following the initial establishment of a library district, the
13 board of county commissioners of the home county within five (5) days shall
14 appoint the members of the first board of trustees, who shall serve until
15 the next election of trustees held in an odd-numbered year or until their
16 successors are elected and qualified in an odd-numbered year. The initial
17 election of trustees shall be for terms of four (4) years for two (2) trustees
18 and thereafter their terms shall be for six (6) years, terms of six (6) years
19 for two (2) trustees and thereafter their terms shall be for six (6) years,
20 and a term of two (2) years for one (1) trustee and thereafter the term shall
21 be for six (6) years. Addition of new territory to an existing library
22 district shall not be considered an initial establishment. The first board
23 of trustees shall be sworn by a member of the board of county commissioners of
24 the home county of the district.

25 (3) At its first meeting, and after each trustee election, the board
26 shall organize and elect from its membership a chairman and other officers
27 necessary to conduct the affairs of the district.

28 (4) Members of the board shall serve without salary but shall receive
29 their actual and necessary expenses while engaged in business of the
30 district.

31 (5) For the purpose of achieving an orderly transition to terms of six
32 (6) years and to hold trustee elections in odd-numbered years, the following
33 schedule shall be followed:

34 (a) For trustees elected in 2005, their terms shall expire in 2011 and
35 the terms for each of those elected in 2011 shall each be six (6) years
36 and thereafter those terms shall be for six (6) years;

37 (b) For trustees elected in 2006, their terms shall expire in 2011 and
38 the terms for each of those elected in 2011 shall each be six (6) years
39 and thereafter those terms shall be for six (6) years;

40 (c) For trustees elected in 2007, their terms shall expire in 2013 and
41 the terms for each of those elected in 2013 shall each be six (6) years
42 and thereafter those terms shall be for six (6) years;

43 (d) For trustees elected in 2008, their terms shall expire in 2013 and
44 the terms for each of those elected in 2013 shall each be six (6) years
45 and thereafter those terms shall be for six (6) years;

46 (e) For trustees elected in 2009, their terms shall expire in 2015 and
47 the terms for each of those elected in 2015 shall each be six (6) years
48 and thereafter those terms shall be for six (6) years;

1 (f) For trustees elected in 2010, their terms shall expire in 2015 and
2 the terms for each of those elected in 2015 shall be six (6) years and
3 thereafter those terms shall be for six (6) years.

4 SECTION 5. That Section 34-106, Idaho Code, as amended by Section 55,
5 Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
6 follows:

7 34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011,
8 notwithstanding any other provisions of the law to the contrary, there shall
9 be no more than two (2) elections conducted in any county in any calendar
10 year, except as provided in this section, and except that elections to fill
11 vacancies in the United States house of representatives shall be held as
12 provided in the governor's proclamation.

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

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

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

16 (c) In addition to the elections specified in paragraphs (a) and (b)
17 of this subsection (1), an emergency election may be called upon motion
18 of the governing board of a political subdivision. An emergency exists
19 when there is a great public calamity, such as an extraordinary fire,
20 flood, storm, epidemic, or other disaster, or if it is necessary to
21 do emergency work to prepare for a national or local defense, or it is
22 necessary to do emergency work to safeguard life, health or property.
23 Such a special election, if conducted by the county clerk, shall be
24 conducted at the expense of the political subdivision submitting the
25 question.

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

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

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

39 (5) The secretary of state is authorized to provide such assistance
40 as necessary, and to prescribe any needed rules or interpretations for the
41 conduct of election authorized under the provisions of this section.

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

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

1 (8) Initiative, referendum, recall, bond, levy and any other ballot
 2 question elections conducted by any political subdivision, ~~except school~~
 3 ~~districts~~, shall be held on the nearest date authorized in subsections (1)
 4 and (7) of this section which falls more than forty-five (45) days after the
 5 clerk of the political subdivision orders that such election shall be held,
 6 unless otherwise provided by law.

7 (9) Recall elections may be held on a different date as authorized
 8 in subsections (1) and (7), and on the second Tuesday of March and the
 9 last Tuesday of August, as determined by the county clerk after receipt of
 10 necessary petitions.

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

16 SECTION 6. That Section 34-731, Idaho Code, be, and the same is hereby
 17 amended to read as follows:

18 34-731. PRESIDENTIAL PREFERENCE VOTE. In years in which a president of
 19 the United States is to be nominated and elected, a presidential preference
 20 primary shall be held at which voters shall express their choice for
 21 candidates for nominations for president. The presidential preference
 22 primary shall be held in conjunction with the primary election, on the ~~fourth~~
 23 third Tuesday in May of each presidential year.

24 SECTION 7. That Section 34-732, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 34-732. SELECTION OF CANDIDATES FOR NOMINATION IN PRESIDENTIAL
 27 PRIMARY. Each qualified elector shall have the opportunity to vote on the
 28 official presidential preference primary ballot for one (1) person to be the
 29 candidate for nomination by a party for president of the United States. The
 30 name of any candidate for a political party nomination for president of the
 31 United States shall be printed on the ballots only:

32 (1) If the secretary of state shall have determined, in his sole
 33 discretion, that the person's candidacy is generally advocated or
 34 recognized in national news media throughout the United States. For
 35 the purpose of promoting the aspect of a regional primary in this regard,
 36 the secretary of state may consult with the chief election officers of
 37 neighboring states which conduct a presidential primary election on the
 38 ~~fourth~~ third Tuesday in May. The secretary of state shall publish the names
 39 of such persons determined by him to be such candidates, together with their
 40 party affiliation, not less than sixty (60) days prior to the date of the
 41 presidential preference primary; or

42 (2) Any candidate who was not placed upon the ballot by the secretary of
 43 state under the provisions of subsection (1) of this section shall be placed
 44 upon the ballot after filing a declaration of candidacy accompanied by a one
 45 thousand dollar (\$1,000) filing fee. The declaration shall be filed with the
 46 secretary of state no later than the fiftieth day prior to the date of the
 47 presidential preference primary.

1 SECTION 8. That Section 34-1401, Idaho Code, as amended by Section
2 59, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
3 follows:

4 34-1401. ELECTION ADMINISTRATION. Notwithstanding any provision to
5 the contrary, the county clerk shall administer all elections on behalf
6 of any political subdivision, subject to the provisions of this chapter,
7 including all special district elections and elections of special questions
8 submitted to the electors as provided in this chapter. Water districts
9 governed by chapter 6, title 42, Idaho Code, recreational water and/or sewer
10 districts as defined in section 42-3202A, Idaho Code, ground water recharge
11 districts governed by chapter 42, title 42, Idaho Code, ground water
12 management districts governed by chapter 51, title 42, Idaho Code, ground
13 water districts governed by chapter 52, title 42, Idaho Code, and irrigation
14 districts governed by title 43, Idaho Code, are exempt from the provisions of
15 this chapter. All municipal, school district and highway district elections
16 shall be conducted pursuant to the provisions of this chapter 14, title 34,
17 Idaho Code. All highway district and school district elections shall be
18 administered by the clerk of the county wherein the district lies. Elections
19 in a joint school district or other political subdivisions that extend
20 beyond the boundaries of a single county shall be conducted jointly by the
21 clerks of the respective counties, and the clerk of the home county shall
22 exercise such powers as are necessary to coordinate the election. "Home
23 county" shall be defined as the county in which the business office for the
24 district or political subdivision is located. For the purposes of achieving
25 uniformity, the secretary of state shall, from time to time, provide
26 directives and instructions to the various county clerks. Unless a specific
27 exception is provided in this chapter, the provisions of this chapter shall
28 govern in all questions regarding the conduct of elections on behalf of all
29 political subdivisions. In all matters not specifically covered by this
30 chapter, other provisions of title 34, Idaho Code, governing elections shall
31 prevail over any special provision which conflicts therewith.

32 The county clerk shall conduct the elections for political subdivisions
33 and shall perform all necessary duties of the election official of a
34 political subdivision including, but not limited to, notice of the filing
35 deadline, notice of the election, and preparation of the election calendar.

36 SECTION 9. That Section 34-1404, Idaho Code, as amended by Section
37 60, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
38 follows:

39 34-1404. DECLARATION OF CANDIDACY. Candidates for election in any
40 political subdivision shall be nominated by nominating petitions, each of
41 which shall bear the name of the nominee, the office for which the nomination
42 is made, the term for which nomination is made, bear the signature of not
43 less than five (5) electors of the candidate's specific zone or district of
44 the political subdivision, and be filed with the ~~election official~~ clerk
45 of the political subdivision. The form of the nominating petition shall
46 be as provided by the county clerk and shall be uniform for all political
47 subdivisions. For an election to be held on the third Tuesday in May, in
48 even-numbered years, the nomination petition shall be filed during the

1 period specified in section 34-704, Idaho Code. The election official
 2 shall verify the qualifications of the nominees and shall, no more than
 3 seven (7) days after the close of filing, certify the nominees and any
 4 special questions placed by action of the governing board of the political
 5 subdivision. For an election to be held on the first Tuesday after the
 6 first Monday of November, in even-numbered years, the nomination shall
 7 be filed on or before September 1. The election official shall verify the
 8 qualifications of the nominees, and shall not later than seven (7) days
 9 after the close of filing, certify the nominees and any special questions
 10 placed by action of the governing board of the political subdivisions.
 11 For all other elections, the nomination shall be filed not later than 5:00
 12 p.m. on the sixth Friday preceding the election for which the nomination is
 13 made. The election official shall verify the qualifications of the nominee,
 14 and shall not more than seven (7) days following the filing certify the
 15 nominees and any special questions, placed by action of the governing board
 16 of the political subdivisions, to be placed on the ballot of the political
 17 subdivision.

18 SECTION 10. That Section 34-1408, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 34-1408. ABSENTEE BALLOTS. Any registered elector may vote at any
 21 election by absentee ballot as provided in chapter 10, title 34, Idaho Code.
 22 In the event of a written application to the county clerk for an absentee
 23 ballot, the application shall be deemed to be an application for all ballots
 24 to be voted in the election, and the county clerk shall ~~notify the election~~
 25 ~~official of each political subdivision conducting an election at that~~
 26 ~~date, and the election official shall~~ provide the ballot of the political
 27 subdivision to the elector.

28 SECTION 11. That Section 34-1410, Idaho Code, be, and the same is hereby
 29 amended to read as follows:

30 34-1410. CANVASSING OF ELECTION RESULTS. ~~Each political subdivision~~
 31 The board of county commissioners shall conduct the canvass of the election
 32 results, in the manner provided in chapter 12, title 34, Idaho Code.
 33 The county clerk shall certify the election results to the clerk of each
 34 political subdivision for which an election was held. Each political
 35 subdivision shall issue the appropriate certificates of election.

36 SECTION 12. That Section 40-1305, Idaho Code, as amended by Section
 37 75, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
 38 follows:

39 40-1305. ELECTION OF HIGHWAY COMMISSIONERS -- TERM OF OFFICE. (1)
 40 On the third Tuesday of May of the next odd-numbered year following the
 41 appointment of the first highway district commissioners, commissioners from
 42 subdistricts one and two shall be elected for a term of two (2) years and the
 43 commissioner from subdistrict three shall be elected for a term of four (4)
 44 years. Thereafter the term of office of all commissioners shall be four (4)
 45 years.

1 ~~(2) Alternative election of highway commissioners — Term of office.~~A
 2 highway district whose terms and election were established by prior law
 3 shall convert to the election of commissioners as provided in subsection (1)
 4 of this section.

5 ~~(a) Notwithstanding subsection (1) of this section, highway district~~
 6 ~~commissioners may, upon the unanimous agreement of the existing board~~
 7 ~~of highway district commissioners, adopt an alternative term of office,~~
 8 ~~whereby a single highway district commissioner shall be elected each~~
 9 ~~year for three (3) years and in the fourth year no election shall be~~
 10 ~~held.~~

11 ~~(b) An election pursuant to paragraph (a) of this subsection shall be~~
 12 ~~conducted in the following manner:~~

13 ~~(i) The commissioner representing subdistrict one shall be~~
 14 ~~elected for a term of four (4) years upon the expiration of the~~
 15 ~~existing term;~~

16 ~~(ii) The commissioner representing subdistrict two shall be~~
 17 ~~elected for a term of five (5) years upon the expiration of the~~
 18 ~~existing term; and~~

19 ~~(iii) Each year thereafter, one (1) commissioner shall be elected,~~
 20 ~~except for the fourth year when no election shall be held.~~

21 ~~(c) If an alternative election is held pursuant to this subsection, the~~
 22 ~~highway district shall not revert to the former manner of elections and~~
 23 ~~terms of office until eight (8) years after such election.~~

24 Each highway commissioner shall be elected on a districtwide basis.

25 SECTION 13. That Section 42-3207, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 42-3207. HEARINGS ON PETITIONS -- ELECTION FOR ORGANIZATION AND
 28 DIRECTORS. On the day fixed for such hearing or at any adjournment thereof
 29 the court shall ascertain from the tax rolls of the county or counties in
 30 which the district is located or into which it extends, the total number
 31 of taxpayers within the proposed district, who pay a general tax on real
 32 property owned by him or her within the district.

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

42 Any time after the filing of the petition for the organization of a
 43 district and before the day fixed for the hearing thereon, the owner or
 44 owners of any real property within the proposed district may file a petition
 45 with the court stating reasons why said property should not be included
 46 therein, why his land or any part thereof will not be benefited by the
 47 proposed district, or should not be embraced in said district and made liable
 48 to taxation therefor, and praying that said property be excluded therefrom.
 49 Such petition shall be duly verified and shall describe the property sought

1 to be excluded. The court shall conduct a hearing on said petition and shall
2 hear all objections to the inclusion in the district of any lands described
3 in said petition. In case any owner of real estate included in said proposed
4 district shall satisfy the court that his real estate, or any part thereof,
5 has been wrongfully included therein or will not be benefited thereby then
6 the court shall exclude such real estate as will not be benefited.

7 Upon said hearing, if it shall appear that a petition for the
8 organization of a district has been signed and presented as hereinabove
9 provided, in conformity with this chapter, and the allegations of the
10 petition are true, the court shall, by order duly entered of record, direct
11 that the question of the organization of the district shall be submitted to
12 the qualified electors of the district ~~at an election to be held, subject~~
13 ~~to the provisions of section 34-106, Idaho Code, for that purpose, and such~~
14 ~~order shall appoint three (3) qualified electors of the district as judges~~
15 ~~of said election. The clerk of the court having jurisdiction shall give~~
16 ~~published notice of the time and place of an election to be held in the~~
17 ~~district in accordance with the provisions of section 34-1406, Idaho Code.~~

18 Such election shall be held ~~and conducted in the same manner as general~~
19 ~~elections~~ in conformity with the general election in this state, including
20 chapter 14, title 34, Idaho Code, except that the court shall establish
21 as many election precincts within such proposed district as are deemed
22 necessary, and shall define the boundaries thereof, which precincts and
23 boundaries may thereafter be changed by the ~~board of directors of such~~
24 ~~district if so organized. Such court, and thereafter the board of directors~~
25 ~~of such district, if so organized, shall appoint three (3) judges of~~
26 ~~election, one (1) of whom shall act as clerk for such election precinct~~
27 county commissioners if the district is organized.

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

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

47 The judges of election shall certify the returns of the election to
48 the district court having jurisdiction. If a majority of the votes cast at
49 said election are in favor of the organization, the district court shall
50 declare the district organized and give it a corporate name by which, in all

1 proceedings, it shall thereafter be known, and designated the first board
2 of directors elected, and thereupon the district shall be a governmental
3 subdivision of the state of Idaho and a body corporate with all the powers of
4 a public or quasi-municipal corporation.

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

14 SECTION 14. That Section 42-3211, Idaho Code, as amended by Section
15 100, Chapter 341, Laws of 2009, be, and the same is hereby amended to read as
16 follows:

17 42-3211. ELECTIONS -- TERMS OF OFFICE. (1) On the third Tuesday in May,
18 in the ~~second calendar~~ first odd-numbered year after the organization of any
19 district, and on the third Tuesday in May every second year thereafter an
20 election shall be held, which shall be known as the biennial election of the
21 district.

22 (2) In districts created under section 42-3202B, Idaho Code, biennial
23 elections shall be held on the third Tuesday in May.

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

32 Not later than 5:00 p.m. on the sixth Friday preceding the election,
33 nominations may be filed with the secretary of the board and if a nominee does
34 not withdraw his name before the first publication of the notice of election,
35 his name shall be placed on the ballot. The county clerk shall conduct the
36 election and shall appoint judges to conduct it. The returns of the election
37 shall be certified to and shall be canvassed and declared as provided in
38 chapter 14, title 34, Idaho Code. The candidate or candidates, according
39 to the number of directors to be elected, receiving the most votes, shall
40 be elected. Any new member of the board shall qualify in the same manner as
41 members of the first board qualify.

42 In any election for director, if after the deadline for filing a
43 declaration of intent as a write-in candidate, it appears that the number
44 of qualified candidates who have been nominated is equal to the number of
45 directors to be elected, it shall not be necessary for the candidates to
46 stand for election, and the board of directors shall declare such candidates
47 elected as directors, and the secretary of the district shall immediately
48 make and deliver to such persons certificates of election signed by him and
49 bearing the seal of the district.

1 SECTION 15. That Section 161, Chapter 341, Laws of 2009, be, and the
2 same is hereby amended to read as follows:

3 SECTION 161. Section 1 of this act shall be in full force and effect
4 on and after July 1, 2009. Sections 41, 42 and 145 of this act shall be in
5 full force and effect on and after January 1, 2010. Sections 2 through 40,
6 Sections 43 through 144 and Sections 146 through 160 of this act shall be in
7 full force and effect on and after January 1, 2011. The Secretary of State
8 and the Idaho Association of Counties shall concurrently submit a report to
9 the Legislature of the actual costs incurred in operating the elections for
10 calendar years 2011 and 2012, by March 1, 2013.

11 SECTION 16. An emergency existing therefor, which emergency is hereby
12 declared to exist, Section 2 of this act shall be in full force and effect on
13 and after passage and approval, and retroactively to January 1, 2010. The
14 remaining sections of this act shall be in full force and effect on and after
15 January 1, 2011.