

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 444

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; REPEALING SECTION 31-717, IDAHO CODE, RELATING TO
2 COUNTY INITIATIVE AND REFERENDUM, SIGNATURES REQUIRED, PRINTING OF PE-
3 TITION, REVIEW OF MEASURES AND TIME LIMITS; AMENDING CHAPTER 7, TITLE
4 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-717, IDAHO CODE, TO
5 PROVIDE FOR INITIATIVE AND REFERENDUM AND TO PROVIDE MINIMUM REQUIRE-
6 MENTS OF A CERTAIN ORDINANCE; AMENDING CHAPTER 1, TITLE 34, IDAHO CODE,
7 BY THE ADDITION OF A NEW SECTION 34-111A, IDAHO CODE, TO DEFINE A TERM;
8 AMENDING SECTION 34-439A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
9 DISCLOSURES IN ELECTIONS TO AUTHORIZE A LEVY; AMENDING SECTION 34-903,
10 IDAHO CODE, TO PROVIDE THAT NO CANDIDATE'S NAME MAY APPEAR ON A BALLOT
11 FOR MORE THAN ONE JUDICIAL OFFICE; AMENDING SECTION 34-1002, IDAHO
12 CODE, TO REMOVE LANGUAGE THAT PROHIBITS AN ELECTOR FROM CHANGING CER-
13 TAIN INFORMATION ON AN APPLICATION FOR ABSENTEE BALLOT; AMENDING CHAP-
14 TER 11, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1106A,
15 IDAHO CODE, TO AUTHORIZE COUNTY ADOPTION OF AN ELECTRONIC POLL BOOK AND
16 TO PROVIDE RELATED REQUIREMENTS; AMENDING CHAPTER 18, TITLE 34, IDAHO
17 CODE, BY THE ADDITION OF A NEW SECTION 34-1801B, IDAHO CODE, TO PROVIDE
18 INITIATIVE AND REFERENDUM PROCEDURES FOR LOCAL ENTITIES; AMENDING SEC-
19 TION 50-501, IDAHO CODE, TO REMOVE REFERENCE TO AN ORDINANCE, TO REVISE
20 THE PERIOD OF TIME WITHIN WHICH PETITIONS FOR REFERENDUM ARE REQUIRED
21 TO BE FILED AND TO PROVIDE A FILING TIME FRAME FOR CERTAIN PETITIONS FOR
22 INITIATIVE; AND DECLARING AN EMERGENCY.
23

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

25 SECTION 1. That Section [31-717](#), Idaho Code, be, and the same is hereby
26 repealed.

27 SECTION 2. That Chapter 7, Title 31, Idaho Code, be, and the same is
28 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
29 ignated as Section 31-717, Idaho Code, and to read as follows:

30 31-717. INITIATIVE AND REFERENDUM. The board of county commissioners
31 of each county shall provide for direct legislation by the people through the
32 initiative and referendum. Minimum requirements of the ordinance adopted
33 shall be as follows:

34 (1) Petitioners for initiative or referendum shall be equal to twenty
35 percent (20%) of the total number of electors voting in the county in the last
36 general election;

37 (2) Petitions for referendum shall be filed not more than sixty (60)
38 days following the final adoption of the ordinance to be subject to referen-
39 dum;

1 (3) Completed petitions with the requisite number of signatures for an
 2 initiative shall be filed with the county clerk not more than seventy-five
 3 (75) days after the date of approval of the form by the county clerk;

4 (4) A special election for initiative or referendum shall be provided
 5 as prescribed in section 34-106, Idaho Code; and

6 (5) Requirements for signature, verification of valid petitions,
 7 printing of petition and time limits, except as expressly modified, shall
 8 be as nearly as practicable as provided in chapter 18, title 34, Idaho Code.
 9 This section does not apply to bond elections.

10 SECTION 3. That Chapter 1, Title 34, Idaho Code, be, and the same is
 11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 12 ignated as Section 34-111A, Idaho Code, and to read as follows:

13 34-111A. "ELECTRONIC POLL BOOK" DEFINED. "Electronic poll book" means
 14 an electronic list of registered voters for a particular precinct or polling
 15 location that may be transported to the polling location. The electronic
 16 poll book shall contain the same information as the combination election
 17 record and poll book as defined in this chapter.

18 SECTION 4. That Section 34-439A, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 34-439A. DISCLOSURES IN ELECTIONS TO AUTHORIZE LEVY. (1) Notwith-
 21 standing any other provision of law except for the provisions of section
 22 63-802(1)(g), Idaho Code, any taxing district that proposes to submit any
 23 question to the electors of the district that would authorize any levy,
 24 except for the levies authorized for the purposes provided in sections
 25 63-802(1)(g) and 33-802(4), Idaho Code, and except for levies relating
 26 to bonded indebtedness where section 34-439, Idaho Code, applies, shall
 27 provide include in the ballot question, or in a brief official statement on
 28 the ballot but separate from the ballot question, a disclosure setting forth
 29 in simple, understandable language information on the proposal substan-
 30 tially as follows:

31 (a) The purpose for which the levy shall be used; the date of the elec-
 32 tion; and, ~~except for the provisions found in sections 63-802(1)(g) and~~
 33 ~~33-802(1) and (4), Idaho Code,~~ the dollar amount estimated to be col-
 34 lected each year from the levy; and

35 (b) The length of time, reflected in months or years, in which the pro-
 36 posed levy will be assessed.

37 (2) ~~The official statement information called for in subsection (1) of~~
 38 this section shall be made a part of the ballot and shall also be included in
 39 like manner in the official notice of the election.

40 SECTION 5. That Section 34-903, Idaho Code, be, and the same is hereby
 41 amended to read as follows:

42 34-903. SECRETARY OF STATE TO PRESCRIBE FORM AND CONTENTS OF ALL BAL-
 43 LOTS AND RELATED DOCUMENTS. (1) The secretary of state shall, in a manner
 44 consistent with the election laws of this state, prescribe the form for
 45 all ballots, absentee ballots, diagrams, sample ballots, ballot labels,

1 voting machine labels or booklets, certificates, notices, declarations of
2 candidacy, affidavits of all types, lists, applications, poll books, tally
3 sheets, registers, rosters, statements and abstracts if required by the
4 election laws of this state.

5 (2) The secretary of state shall prescribe the arrangement of the mat-
6 ter to be printed on each kind of ballot and label, including:

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

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

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

16 (4) The names of candidates which appear on election ballots for fed-
17 eral, state, county and city offices shall be rotated in the manner deter-
18 mined by the secretary of state. The order of candidates for office in other
19 elections shall be determined by applying the first letter of each candi-
20 date's last name to a random alphabet selected prior to each election by the
21 secretary of state.

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

27 SECTION 6. That Section 34-1002, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 34-1002. APPLICATION FOR ABSENTEE BALLOT. (1) Any registered elector
30 may make written application to the county clerk, or other proper officer
31 charged by law with the duty of issuing official ballots for such election,
32 for an official ballot or ballots of the kind or kinds to be voted at the elec-
33 tion. The application shall contain the name of the elector, the elector's
34 home address, county, and address to which such ballot shall be forwarded.

35 (2) In order to provide the appropriate primary election ballot to
36 electors, in the event a political party elects to allow unaffiliated elec-
37 tors to vote in that party's primary election pursuant to section 34-904A,
38 Idaho Code, the elector shall designate, as part of the written application
39 for a ballot for primary elections, the elector's party affiliation or des-
40 ignation as "unaffiliated." The application shall contain checkoff boxes
41 for "unaffiliated" electors by which such electors shall indicate for which
42 party's primary ballot the "unaffiliated" elector chooses to vote. Provided
43 however, that no political party's primary election ballot shall be provided
44 to an "unaffiliated" elector for a political party that has not elected to
45 allow "unaffiliated" electors to vote in that political party's primary
46 election pursuant to section 34-904A, Idaho Code. If an "unaffiliated"
47 elector does not indicate a choice of political party's primary election
48 ballot, the elector shall receive a nonpartisan ballot.

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

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

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

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

33 (7) The application for an absent elector's ballot shall be signed
34 personally by the applicant. The application for a mail-in absentee ballot
35 shall be received by the county clerk not later than 5:00 p.m. on the sixth
36 day before the election. An application for in person absentee voting at the
37 absent elector's polling place described in section 34-1006, Idaho Code,
38 shall be received by the county clerk not later than 5:00 p.m. on the Friday
39 before the election. Application for an absentee ballot may be made by using
40 a facsimile machine or other electronic transmission. In the event a regis-
41 tered elector is unable to vote in person at the elector's designated polling
42 place on the day of election because of an emergency situation which rendered
43 the elector physically unable, the elector may nevertheless apply for an
44 absent elector's ballot by notifying the county clerk within ninety-six (96)
45 hours prior to the closing of the polls. No person may, however, be entitled
46 to vote under an emergency situation unless the situation claimed rendered
47 the elector physically unable to vote at the elector's designated polling
48 place within ninety-six (96) hours prior to the closing of the polls.

49 (8) A person may make application for an absent elector's ballot by use
50 of a properly executed federal post card application as provided for in the

1 laws of the United States known as uniformed and overseas citizens absentee
2 voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended). The issuing of-
3 ficer shall keep as a part of the records of such officer's office a list of
4 all applications so received and of the manner and time of delivery or mail-
5 ing to and receipt of returned ballot.

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

10 SECTION 7. That Chapter 11, Title 34, Idaho Code, be, and the same is
11 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
12 ignated as Section 34-1106A, Idaho Code, and to read as follows:

13 34-1106A. ELECTRONIC POLL BOOK AUTHORIZED. (1) A county may adopt the
14 use of any electronic poll book that has been certified by the secretary of
15 state for use in this state. A county that opts to use electronic poll books
16 shall notify the secretary of state of that decision.

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

21 SECTION 8. That Chapter 18, Title 34, Idaho Code, be, and the same is
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
23 ignated as Section 34-1801B, Idaho Code, and to read as follows:

24 34-1801B. INITIATIVE AND REFERENDUM PROCEDURES FOR LOCAL ENTI-
25 TIES. Cities and counties shall follow the procedures set forth in this
26 chapter as closely as is possible with the following changes:

27 (1) The city attorney or county prosecutor shall perform the duties as-
28 signed to the attorney general.

29 (2) The city clerk or county clerk shall perform those duties assigned
30 to the secretary of state.

31 (3) An action challenging the sufficiency of ballot titles shall be
32 brought in the district court in the county where the entity is located.

33 (4) Signatures shall be gathered from among the qualified electors of
34 the entity within which the initiative or referendum is to be adopted.

35 (5) There shall be no geographical distribution requirement within a
36 local entity initiative or referendum.

37 (6) A copy of all petitions and signature sheets shall be kept by the
38 city clerk or county clerk as a public record.

39 (7) The clerk shall publish an adopted ordinance or referendum in a man-
40 ner consistent with the publication of local ordinances.

41 (8) Any city or county shall have the option to adopt the measure within
42 thirty (30) days of presentment of the petition with the requisite number of
43 signatures. The city attorney or county prosecutor shall certify that the
44 measure has the same legal effect as the petition if adopted. If the city
45 attorney or county prosecutor fails to certify within five (5) days of adop-
46 tion, the measure shall be placed before the voters for their consideration.

1 (9) The provisions contained in sections 34-1812A through 34-1812C,
2 Idaho Code, regarding voters' pamphlet shall not apply.

3 SECTION 9. That Section 50-501, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 50-501. INITIATIVE AND REFERENDUM. The city council of each city shall
6 provide ~~by ordinance~~ for direct legislation by the people through the ini-
7 tiative and referendum. Minimum requirements of the ordinance adopted shall
8 be as follows:

9 (1) Petitioners for initiative or referendum shall be equal to twenty
10 percent (20%) of the total number of electors who cast votes at the last gen-
11 eral election in the city;

12 (2) Petitions for referendum shall be filed not ~~less~~ more than sixty
13 (60) days following the final adoption of the ordinance to be subject to ref-
14 erendum;

15 (3) Completed petitions with the requisite number of signatures for an
16 initiative shall be filed with the city clerk not more than seventy-five (75)
17 days after the date of approval of the form by the city clerk;

18 (4) A special election for initiative or referendum shall be provided
19 as prescribed in section 34-106, Idaho Code;

20 (45) Requirements for signature, verification of valid petitions,
21 printing of petition, and time limits, except as expressly modified herein,
22 shall be as nearly as practicable as provided in chapter 18, title 34, Idaho
23 Code. This section does not apply to bond elections.

24 SECTION 10. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after its
26 passage and approval.