

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 204

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1408, IDAHO
2 CODE, TO REVISE PROVISIONS RELATING TO THE RESIDENCE REQUIREMENTS
3 OF FIRE PROTECTION COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS;
4 AMENDING SECTION 31-1409, IDAHO CODE, TO REVISE PROVISIONS RELATING TO
5 THE RESIDENCE REQUIREMENTS OF FIRE PROTECTION COMMISSIONERS; AMEND-
6 ING SECTION 31-1410, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO
7 RESIDENCE REQUIREMENTS FOR FIRE PROTECTION COMMISSIONERS, TO PROVIDE
8 REQUIREMENTS RELATING TO THE BOARD OF FIRE PROTECTION COMMISSIONERS'
9 RESPONSIBILITY TO REVISE SUBDISTRICTS AND TO MAKE TECHNICAL CORREC-
10 TIONS; AND AMENDING CHAPTER 14, TITLE 31, IDAHO CODE, BY THE ADDITION OF
11 A NEW SECTION 31-1410B, IDAHO CODE, TO ESTABLISH A PROCESS TO DECREASE
12 THE SIZE OF A FIRE PROTECTION BOARD.
13

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

15 SECTION 1. That Section 31-1408, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 31-1408. FIRE PROTECTION BOARD -- APPOINTMENT OF COMMISSIONERS --
18 OATH. (1) There shall be three (3) fire protection commissioners in each
19 district, who shall constitute the fire protection board. The first fire
20 protection commissioners of such fire protection district shall be ap-
21 pointed by the governor. The certificate of such appointment shall be made
22 in triplicate; one (1) certificate shall be filed in the office of the
23 county recorder of the county; one (1) with the clerk of the board of county
24 commissioners; and one (1) with the assessor and tax collector of the
25 county. Every fire protection commissioner and appointed officer shall take
26 and subscribe the official oath, which oath shall be filed in the office of
27 the board of fire protection commissioners. If thirty-three percent (33%)
28 of the ~~property and~~ area or population in the fire protection district is
29 situated in two (2) or more counties, not more than two (2) of the appointed
30 fire protection district commissioners shall be from the same county, ~~unless~~
31 ~~pursuant to section 31-1410A, Idaho Code, the board is comprised of five (5)~~
32 ~~members, in which event not more than three (3) of the commissioners shall be~~
33 ~~from the same county.~~

34 (2) The oath of office of fire protection commissioners and appointed
35 officers shall be taken before the secretary or the president of the board of
36 the fire district at the first regularly scheduled board meeting in January
37 succeeding each election. Provided however, in the event of an inability
38 to appear for the taking of the oath, a duly elected fire protection commis-
39 sioner may be sworn in and may subscribe to the oath wherever he may be, pro-
40 vided he appear before an officer duly authorized to administer oaths, and
41 provided further, that any person who is in any branch of the armed forces of
42 the United States of America, may appear before any person qualified to ad-

1 minister oaths as prescribed in section 55-705, Idaho Code, and may take and
 2 subscribe the oath of office as provided for in section 59-401, Idaho Code,
 3 and the oath of office shall have the same force and effect as though it were
 4 taken before the secretary or the president of the fire district pursuant to
 5 this subsection.

6 SECTION 2. That Section 31-1409, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS -- TERM OF OF-
 9 FICE -- VACANCIES. (1) At the meeting of the board of county commissioners
 10 at which the fire protection district is declared organized, as provided
 11 by section 31-1407, Idaho Code, the county commissioners shall divide the
 12 fire protection district into three (3) subdivisions, as nearly equal in
 13 population, area and mileage as practicable, to be known as fire protection
 14 commissioners subdistricts one, two and three. Not more than one (1) ~~of~~
 15 ~~said~~ commissioners shall be an ~~elector~~ resident of the same fire protection
 16 subdistrict, except that any commissioner appointed by the governor under
 17 section 31-1408, Idaho Code, shall not be disqualified from the completion
 18 of the term for which the commissioner has been appointed because of the
 19 subdistrict in which the commissioner resides. The first commissioners ap-
 20 pointed by the governor shall serve until the next fire protection district
 21 election, at which their successors shall be elected. The term of office for
 22 fire protection commissioners shall commence on the second Monday of January
 23 succeeding each general election. Commissioners appointed and elected must
 24 be electors resident within the district for at least one (1) year.

25 (2) Any fire protection commissioner vacancy occurring, other than by
 26 the expiration of the term of office, shall be filled by the fire protec-
 27 tion board. If a duly elected or appointed fire protection commissioner re-
 28 signs, withdraws, becomes disqualified, refuses or becomes otherwise unable
 29 to perform the duties of office for longer than ninety (90) days, the board,
 30 on satisfactory proof of the vacancy, shall declare the office vacant. The
 31 board shall fill any vacancies within sixty (60) days of learning of the va-
 32 cancy. When a vacancy occurs, the board shall direct the secretary to cause
 33 a notice of the vacancy to be published in at least one (1) issue of a newspa-
 34 per of general circulation within the district. The notice shall include the
 35 date and time of the meeting when the board will vote to fill the vacancy, and
 36 the deadline for qualified elector residents interested in being appointed
 37 to the position to submit a written request for appointment to the board.
 38 Should the board fail to agree on an individual to fill the vacancy, it shall
 39 select the individual by a coin toss to be conducted at a fire protection
 40 board meeting. Candidates for the vacancy shall be invited by the board to
 41 attend the meeting and observe the coin toss. The candidate who wins the coin
 42 toss shall be appointed to fill the vacancy.

43 SECTION 3. That Section 31-1410, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 31-1410. ELECTION OF COMMISSIONERS -- RESIDENCE QUALIFICATIONS OF
 46 COMMISSIONERS -- REVISING SUBDISTRICTS -- TERM OF OFFICE. (1) On the first
 47 Tuesday following the first Monday of November, of the next odd-numbered

1 year, following the organization of a fire protection district, three (3)
 2 fire protection district commissioners shall be elected. Not more than
 3 one (1) commissioner shall be a resident of the same fire protection com-
 4 missioners subdistrict. Every odd-numbered year thereafter, an election
 5 shall be held for the election of fire district commissioners as described
 6 in this section. For commissioners whose offices expire in 2012 and in any
 7 even-numbered year, such commissioners shall remain in office until the next
 8 election in an odd-numbered year. The county clerk shall have power to make
 9 such regulations for the conduct of such election as are consistent with the
 10 statutory provisions of chapter 14, title 34, Idaho Code. ~~At their meet-~~
 11 ~~ing next preceding such election, the board of fire district commissioners~~
 12 ~~shall divide the district into three (3) subdistricts as nearly equal in~~
 13 ~~population, area and mileage as practicable, to be known as fire protection~~
 14 ~~commissioners subdistricts one, two and three. Thereafter,~~

15 (2) The board of fire district commissioners may revise subdistricts
 16 when it deems it necessary due to significant shifts in population. The
 17 board of fire district commissioners shall revise subdistricts in accor-
 18 dance with sections 31-1410A, 31-1410B and 31-1412(6), Idaho Code, and
 19 within six (6) months following the end of each decennial United States cen-
 20 sus reporting year so as to equalize the population, area and mileage between
 21 the subdistricts as nearly as practicable. Provided however, of the commis-
 22 sioners comprising the board, not more than one (1) commissioner shall be an
 23 elector resident of the same fire protection commissioners subdistrict. The
 24 revision of subdistricts shall not disqualify any elected commissioner from
 25 the completion of the term for which he or she has been duly elected.

26 (3) At the first election following organization of a fire protection
 27 district, the commissioner from fire protection subdistrict one shall be
 28 elected to a term of two (2) years, and the commissioners from subdistricts
 29 two and three shall be elected to a term of four (4) years; thereafter, the
 30 term of office of all commissioners shall be four (4) years. Such elections
 31 and all other elections held under this law, shall be held in conformity with
 32 the general laws of the state including chapter 14, title 34, Idaho Code.

33 (24) A fire protection district whose terms and elections were estab-
 34 lished by prior law shall convert to the election of commissioners as pro-
 35 vided in subsection (1) of this section.

36 (35) In any election for fire protection district commissioner, if af-
 37 ter the deadline for filing a declaration of intent as a write-in candidate,
 38 it appears that only one (1) qualified candidate has been nominated for a
 39 subdistrict to be filled, it shall not be necessary for the candidate of that
 40 subdistrict to stand for election, and the board of the fire protection dis-
 41 trict shall declare such candidate elected as commissioner, and the secre-
 42 tary of the district shall immediately make and deliver to such person a cer-
 43 tificate of election.

44 (6) The results of any election for fire protection district commis-
 45 sioner shall be certified by the county clerk of the county or counties of the
 46 district and the results reported to the district.

47 SECTION 4. That Chapter 14, Title 31, Idaho Code, be, and the same is
 48 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 49 ignated as Section 31-1410B, Idaho Code, and to read as follows:

1 31-1410B. DECISION TO DECREASE THE SIZE OF THE BOARD. (1) Any fire pro-
2 tection board that consists of five (5) members may, by a four-fifths (4/5)
3 majority vote of all of the board members, elect to decrease the size of the
4 board to three (3) members.

5 (2) If the board of fire protection commissioners elects to reduce the
6 board to three (3) members, the existing board members shall subdivide the
7 district into three (3) subdivisions as nearly equal in population, area and
8 mileage as practicable, to be known as subdistricts one, two and three.

9 (3) At the first election following the decision of the board of fire
10 protection commissioners to reduce the board from five (5) to three (3) mem-
11 bers, three (3) commissioners shall be elected. The commissioner from fire
12 protection subdistrict one shall be elected to a term of two (2) years and the
13 commissioners from subdistricts two and three shall be elected to a term of
14 four (4) years. Thereafter, the term of all commissioners shall be four (4)
15 years.

16 (4) A fire district that, prior to the effective date of this section,
17 elected to reduce a board from five (5) to three (3) members shall, before
18 the next election of the district, adopt a transition schedule as nearly re-
19 flecting the schedule provided in this section as possible. For commis-
20 sioners whose office expires in 2016 and in any even-numbered year, such commis-
21 sioners shall remain in office until the next election in an odd-numbered
22 year.