

IN THE SENATE

SENATE BILL NO. 1398

BY STATE AFFAIRS COMMITTEE

AN ACT

1
2 RELATING TO ELECTIONS; AMENDING SECTION 33-2715, IDAHO CODE, TO REVISE AN
3 ELECTION DATE; AMENDING SECTION 34-102, IDAHO CODE, TO REVISE A DEFINI-
4 TION AND TO REVISE PROVISIONS REGARDING PURPOSES; AMENDING SECTION
5 34-106, IDAHO CODE, TO REVISE A PROVISION REGARDING LIMITATION ON ELEC-
6 TIONS; AMENDING SECTION 34-601, IDAHO CODE, TO REVISE AN ELECTION DATE;
7 AMENDING SECTION 34-606, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE
8 ELECTION OF PRESIDENTIAL ELECTORS AND NOMINATION FOR PRESIDENT; AMEND-
9 ING SECTION 34-703, IDAHO CODE, TO ESTABLISH A PROVISION REGARDING NOM-
10 INATION AT PRIMARY; AMENDING CHAPTER 7, TITLE 34, IDAHO CODE, BY THE AD-
11 DITION OF A NEW SECTION 34-718, IDAHO CODE, TO ESTABLISH PROVISIONS RE-
12 GARDING PRESIDENTIAL PRIMARIES; AMENDING SECTION 34-1214, IDAHO CODE,
13 TO ESTABLISH A PROVISION REGARDING CERTIFICATES OF NOMINATION OR ELEC-
14 TION TO A CERTAIN FEDERAL OFFICE; AMENDING SECTION 39-1330, IDAHO CODE,
15 TO REVISE AN ELECTION DATE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
16 SECTION 40-1305, IDAHO CODE, TO REVISE AN ELECTION DATE; AMENDING SEC-
17 TION 42-3211, IDAHO CODE, TO REVISE AN ELECTION DATE; AMENDING SECTION
18 50-405, IDAHO CODE, TO REVISE ELECTION DATES; AMENDING SECTION 67-4911,
19 IDAHO CODE, TO REVISE AN ELECTION DATE; AND DECLARING AN EMERGENCY AND
20 PROVIDING AN EFFECTIVE DATE.

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

22 SECTION 1. That Section 33-2715, Idaho Code, be, and the same is hereby
23 amended to read as follows:

24 33-2715. BOARD OF TRUSTEES -- SELECTION -- NUMBER -- QUALIFICATIONS --
25 TERM -- OATH -- APPOINTMENT OF FIRST BOARD. (1) Each library district shall
26 be governed by a board of trustees of five (5) members elected or appointed as
27 provided by law, who at the time of their selection and during their terms of
28 office shall be qualified electors of the district and if trustee zones have
29 been established under section 33-2718, Idaho Code, shall be a resident of
30 the trustee zone. Trustees shall be elected at each trustee election, held
31 on the ~~uniform election date in May~~ date provided in section 34-106(1) (a),
32 Idaho Code. The regular term of a trustee shall be for four (4) years, or un-
33 til his successor has been elected and qualified. Within ten (10) days af-
34 ter his appointment an appointed trustee shall qualify and assume the duties
35 of his office. An elected trustee shall qualify and assume the duties of his
36 office at the annual meeting. All trustees qualify by taking the oath of of-
37 fice required of state officers, to be administered by one (1) of the present
38 trustees or by a trustee retiring.

39 (2) Following the initial establishment of a library district, the
40 board of county commissioners of the home county within five (5) days shall
41 appoint the members of the first board of trustees, who shall serve until the
42 next election of trustees held in an odd-numbered year or until their succes-

1 sors are elected and qualified in an odd-numbered year. The initial election
 2 of three (3) trustees shall be for terms of two (2) years, and subsequent reg-
 3 ular terms shall be for four (4) years. The initial and subsequent election
 4 of two (2) trustees shall be for terms of four (4) years. Addition of new
 5 territory to an existing library district shall not be considered an initial
 6 establishment. The first board of trustees shall be sworn by a member of the
 7 board of county commissioners of the home county of the district.

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

11 (4) Members of the board shall serve without salary but shall receive
 12 their actual and necessary expenses while engaged in business of the dis-
 13 trict.

14 (5) For the purpose of achieving an orderly transition from terms of six
 15 (6) years to terms of four (4) years, the following schedule shall be fol-
 16 lowed:

17 (a) Trustees elected in 2023 or earlier shall serve the remainder of the
 18 regular six (6) year term for which they were most recently elected; and

19 (b) Trustees elected in 2025 or later shall serve regular terms of four
 20 (4) years.

21 SECTION 2. That Section 34-102, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 34-102. "PRIMARY ELECTION" DEFINED -- PURPOSES. "Primary election"
 24 means an election held for the purpose of nominating persons as candidates of
 25 political parties for election to offices, ~~and~~ for the purpose of electing
 26 persons as members of the controlling committees of political parties, and
 27 for the purpose of allowing voters to express their preference of candidate
 28 for nomination by a political party for president of the United States.
 29 Primary elections shall be held on the ~~third Tuesday of May~~ date provided in
 30 section 34-106(1) (a), Idaho Code, in each even-numbered year.

31 SECTION 3. That Section 34-106, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 34-106. LIMITATION ON ELECTIONS. On and after January 1, 2011,
 34 notwithstanding any other provisions of the law to the contrary, there shall
 35 be no more than two (2) elections conducted in any county in any calendar
 36 year, except as provided in this section or section 34-220, Idaho Code, and
 37 except that elections to fill vacancies in the United States house of repre-
 38 sentatives shall be held as provided in the governor's proclamation.

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

40 (a) The ~~third~~ Tuesday following the first Monday in May of each year;
 41 and

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

43 (c) In addition to the elections specified in paragraphs (a) and (b) of
 44 this subsection and subsection (7) of this section, an emergency elec-
 45 tion may be called upon motion of the governing board of a political sub-
 46 division. An emergency exists when there is a great public calamity,
 47 such as an extraordinary fire, flood, storm, epidemic, or other disas-

1 ter, or when it is necessary to do emergency work to prepare for national
2 or local defense or to safeguard life, health or property.

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

6 (3) Candidates for office elected in November shall take office as pro-
7 vided in the constitution or on January 1 next succeeding the November elec-
8 tion.

9 (4) The governing board of each political subdivision subject to the
10 provisions of this section that, prior to January 1, 2011, conducted an elec-
11 tion for members of that governing board on a date other than a date permit-
12 ted in subsection (1) of this section shall establish as the election date
13 for that political subdivision the date authorized in subsection (1) of this
14 section that falls nearest the date on which elections were previously con-
15 ducted, unless another date is established by law.

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

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

21 (7) Community colleges governed by chapter 21, title 33, Idaho Code,
22 and school districts are subject to the limitations specified in subsection
23 (1) of this section.

24 (8) A city initiative or referendum election shall be held on the Tues-
25 day following the first Monday in November of odd-numbered years. A county
26 initiative or referendum election or a bond, levy or other ballot question
27 election conducted by any political subdivision shall be held on the nearest
28 date authorized in subsection (1) of this section as long as the ballot lan-
29 guage for any question to be placed on the ballot is submitted to the county
30 clerk no later than 5:00 p.m. on the tenth Friday before the election.

31 (9) Recall elections may be held on any of the dates authorized in sub-
32 section (1) of this section as long as the recall petition is certified no
33 later than the tenth Friday before the next scheduled election.

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

39 SECTION 4. That Section 34-601, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 34-601. DATES ON WHICH ELECTIONS SHALL BE HELD. Elections shall be
42 held in this state on the following dates or times:

43 (1) A primary election shall be held on the ~~third Tuesday in May, 2012~~
44 following the first Monday in May, and every two (2) years thereafter on the
45 above-mentioned Tuesday.

46 (2) A general election shall be held on the first Tuesday after the
47 first Monday of November, 2012, and every two (2) years thereafter on the
48 above-mentioned Tuesday.

1 (3) Special state elections shall be held on the dates ordered by the
2 governor's proclamation, or as otherwise provided by law.

3 SECTION 5. That Section 34-606, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 34-606. ELECTION OF PRESIDENTIAL ELECTORS -- NOMINATION FOR PRESI-
6 DENT. (1) At the general election, 1972, and every four (4) years thereafter,
7 there shall be elected such a number of electors of president and vice pres-
8 ident of the United States as the state may be entitled to in the electoral
9 college.

10 (2) No person shall be elected to this position unless he has attained
11 the age of twenty-one (21) years at the time of the election, is a citizen of
12 the United States and shall have resided within the state two (2) years next
13 preceding his election.

14 (3) Such electors shall be certified to the secretary of state as pro-
15 vided for by law.

16 (4) Any candidate for a political party participating in the nomination
17 for president of the United States at the primary election shall file a dec-
18 laration of candidacy with the secretary of state and pay a filing fee of one
19 thousand dollars (\$1,000) within the time period provided in section 34-704,
20 Idaho Code. Such filing fee shall be deposited in the general fund.

21 SECTION 6. That Section 34-703, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 34-703. NOMINATION AT PRIMARY. (1) All political party candidates for
24 president of the United States, for United States senator and representative
25 in congress, and for all political party candidates for elective state, dis-
26 trict and county offices, except candidates for judicial office, at general
27 elections shall be nominated at the primary elections, or shall have their
28 names placed on the general election ballot as provided by law, and shall
29 comply with the provisions of this act.

30 (2) All candidates for judicial office shall be nominated or elected at
31 the primary election, as provided by section 34-1217, Idaho Code.

32 (3) Independent candidates shall not be voted on at primary elections.

33 SECTION 7. That Chapter 7, Title 34, Idaho Code, be, and the same is
34 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
35 ignated as Section 34-718, Idaho Code, and to read as follows:

36 34-718. PRESIDENTIAL PRIMARY. (1) In years in which a president of the
37 United States is to be nominated and elected, a presidential primary shall be
38 held at which voters may express their choice of candidate for nomination by
39 a political party for president. The presidential primary shall be held on
40 the date provided in section 34-106(1) (a), Idaho Code, in each presidential
41 election year.

42 (2) Participation in a presidential primary by a political party shall
43 be optional, and nothing in this chapter shall be construed as mandating a
44 party's participation in a presidential primary. Any party that intends to
45 participate in a presidential primary shall notify the secretary of state's

1 office no later than the last Tuesday in November prior to the presidential
2 primary.

3 SECTION 8. That Section 34-1214, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 34-1214. CERTIFICATES OF NOMINATION OR ELECTION TO FEDERAL, STATE,
6 DISTRICT OR NONPARTISAN OFFICES AFTER PRIMARY. (1) Immediately after the
7 primary election canvass, the secretary of state shall issue certificates
8 of nomination to the political party candidates of each party who receive
9 the highest number of votes for their particular federal, state or district
10 office. The candidates so certified shall have their names placed on the
11 general election ballot.

12 (2) Immediately after the primary election canvass in a presidential
13 election year, the secretary of state shall certify to the state chair of
14 each political party the number of votes received by that party's candidates
15 for president of the United States. A winner shall be declared as prescribed
16 by rule of the state and national party.

17 ~~(2)~~ (3) Immediately after the primary election canvass, the secretary
18 of state shall issue certificates of nomination to the nonpartisan candi-
19 date or candidates who receive the highest number of votes for the number
20 of vacancies which are to be filled for a particular office and also to the
21 same number of candidates who receive the second highest number of votes for
22 the particular office. The candidates so certified shall have their names
23 placed on the general election ballot. If it appears from the canvass that a
24 particular candidate has received a majority of the total vote cast for the
25 particular office, he shall be issued a certificate of election instead of a
26 certificate of nomination and no candidates shall run for the particular of-
27 fice in the general election.

28 SECTION 9. That Section 39-1330, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 39-1330. BIENNIAL ELECTION OF BOARD MEMBERS -- TERMS OF OFFICE. On the
31 third Tuesday of May date provided in section 34-106(1) (a), Idaho Code, in
32 the next odd-numbered calendar year after the organization of any district,
33 and on the ~~third Tuesday of May~~ the date provided in section 34-106(1) (a),
34 Idaho Code, every second year thereafter, an election shall be held, which
35 shall be known as the biennial election of the district.

36 At the first biennial election in any district hereafter organized and
37 each sixth year thereafter, there shall be elected by the qualified electors
38 of the district three (3) members of the board to serve for a term of six (6)
39 years; at the second biennial election and each sixth year thereafter, there
40 shall be elected two (2) members of the board to serve for a term of six (6)
41 years; at the third biennial election and each sixth year thereafter, there
42 shall be elected two (2) members of the board to serve for ~~terms~~ a term of six
43 (6) years.

44 The county clerk shall provide for holding such elections and shall ap-
45 point judges to conduct them; the county clerk shall give notice of election
46 by publication and shall arrange such other details in connection therewith
47 as the board may direct. The returns of the election shall be certified

1 to and shall be canvassed and declared by the board of county commission-
2 ers. The candidate or candidates, according to the number of trustees to be
3 elected, receiving the most votes shall be elected. Any new member of the
4 board shall qualify in the same manner as members of the first board qualify.

5 In any election for trustee, if after the deadline for filing a declara-
6 tion of intent as a write-in candidate it appears that only one (1) qualified
7 candidate has been nominated for a trustee's position, it shall not be neces-
8 sary for the candidate to stand for election, and the board of trustees of the
9 district shall declare such candidate elected as a trustee, and the secre-
10 tary of the board of the district shall immediately make and deliver to such
11 person a certificate of election.

12 For the purpose of achieving an orderly transition to a term of six (6)
13 years and to hold trustee elections in odd-numbered years, the following
14 schedule shall be followed:

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

18 (b) For trustees elected in 2006, their terms shall expire in 2013 and
19 the terms for each of those elected in 2013 shall be six (6) years and
20 thereafter those terms shall be for six (6) years;

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

24 (d) For trustees elected in 2008, their terms shall expire in 2015 and
25 the terms for each of those elected in 2015 shall be six (6) years and
26 thereafter those terms shall be for six (6) years;

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

30 (f) For trustees elected in 2010, their terms shall expire in 2017 and
31 the terms for each of those elected in 2017 shall be six (6) years and
32 thereafter those terms shall be for six (6) years.

33 SECTION 10. That Section 40-1305, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 40-1305. ELECTION OF HIGHWAY COMMISSIONERS -- TERM OF OFFICE. (1) On
36 the ~~third Tuesday of May~~ date provided in section 34-106(1) (a), Idaho Code,
37 of the next odd-numbered year following the appointment of the first highway
38 district commissioners, commissioners from subdistricts one and two shall
39 be elected for a term of two (2) years and the commissioner from subdistrict
40 three shall be elected for a term of four (4) years. Thereafter the term of
41 office of all commissioners shall be four (4) years.

42 (2) A highway district whose terms and election were established by
43 prior law shall convert to the election of commissioners as provided in sub-
44 section (1) of this section.

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

46 SECTION 11. That Section 42-3211, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 42-3211. ELECTIONS -- TERMS OF OFFICE. (1) On the ~~third Tuesday in May~~
 2 date provided in section 34-106(1) (a), Idaho Code, in the first odd-numbered
 3 year after the organization of any district, and on the ~~third Tuesday in May~~
 4 date provided in section 34-106(1) (a), Idaho Code, every second year there-
 5 after, an election shall be held, which shall be known as the biennial elec-
 6 tion of the district. Such election shall be held and conducted consistent
 7 with the provisions of chapter 14, title 34, Idaho Code.

8 (2) In districts created under section 42-3202B, Idaho Code, biennial
 9 elections shall be held on the ~~third Tuesday in May~~ date provided in section
 10 34-106(1) (a), Idaho Code.

11 (3) At the first biennial election in any district hereafter organized,
 12 and each sixth year thereafter, there shall be elected by the qualified elec-
 13 tors of the district, one (1) member of the board to serve for a term of six
 14 (6) years; at the second biennial election and each sixth year thereafter,
 15 there shall be elected two (2) members of the board to serve for terms of six
 16 (6) years, and at the third biennial election, and each sixth year there-
 17 after, there shall be elected two (2) members of the board to serve for terms
 18 of six (6) years.

19 In any election for director, if after the deadline for filing a decla-
 20 ration of intent as a write-in candidate, it appears that the number of qual-
 21 ified candidates who have been nominated is equal to the number of directors
 22 to be elected, it shall not be necessary for the candidates to stand for elec-
 23 tion, and the board of directors shall declare such candidates elected as
 24 directors, and the secretary of the district shall immediately make and de-
 25 liver to such persons certificates of election signed by him and bearing the
 26 seal of the district.

27 SECTION 12. That Section 50-405, Idaho Code, be, and the same is hereby
 28 amended to read as follows:

29 50-405. GENERAL AND SPECIAL CITY ELECTIONS. (1) A general election
 30 shall be held in each city governed by this title, for officials as in this
 31 title provided, on the ~~Tuesday following the first Monday of November~~ date
 32 provided in section 34-106(1) (b), Idaho Code, in each odd-numbered year.
 33 All such officials shall be elected and hold their respective offices for the
 34 term specified and until their successors are elected and qualified. All
 35 other city elections that may be held under authority of general law shall be
 36 known as special city elections.

37 (2) (a) No city with a population of less than one hundred thousand
 38 (100,000) shall hold a city election for an office if, after the dead-
 39 line for filing a declaration of intent to be a write-in candidate for
 40 the office, it appears:

41 (i) For the office of mayor, only one (1) person has filed a dec-
 42 laration of candidacy or a declaration of intent to be a write-in
 43 candidate;

44 (ii) For the office of city council member in cities that have es-
 45 tablished designated seats, as provided in section 50-707, Idaho
 46 Code, only one (1) person has filed a declaration of candidacy or a
 47 declaration of intent to be a write-in candidate for a particular
 48 seat up for election for a two (2) year term or a four (4) year term;
 49 or

1 (iii) For the office of city council member in cities that do not
 2 have designated council seats as provided in section 50-707, Idaho
 3 Code, the number of people who have filed a declaration of candi-
 4 dacy or a declaration of intent to be a write-in candidate is equal
 5 to or fewer than the number of council positions up for election
 6 for a two (2) year term or a four (4) year term.

7 (b) If the provisions of paragraph (a) of this subsection have been
 8 met, the city clerk shall declare such candidate elected. The candidate
 9 shall receive a certificate of election and be installed at the first
 10 city council meeting in January following the election.

11 (3) On and after January 1, 2011, notwithstanding any other provisions
 12 of law to the contrary, there shall be no more than two (2) elections con-
 13 ducted in any city in any calendar year, except as provided in this section.

14 (4) The dates on which elections may be conducted are:

15 (a) ~~The third Tuesday in May~~ date provided in section 34-106(1) (a),
 16 Idaho Code, of each year; and

17 (b) ~~The Tuesday following the first Monday in November~~ date provided in
 18 section 34-106(1) (b), Idaho Code, of each year.

19 (c) In addition to the elections specified in paragraphs (a) and (b) of
 20 this subsection, an emergency election may be called upon motion of the
 21 city council of a city. An emergency exists when there is a great pub-
 22 lic calamity, such as an extraordinary fire, flood, storm, epidemic or
 23 other disaster, or if it is necessary to do emergency work to prepare for
 24 a national or local defense, or if it is necessary to do emergency work
 25 to safeguard life, health or property.

26 (5) Pursuant to section 34-1401, Idaho Code, all city elections shall
 27 be conducted by the county clerk of the county wherein the city lies, and
 28 elections shall be administered in accordance with the provisions of title
 29 34, Idaho Code, except as those provisions are specifically modified by the
 30 provisions of this chapter. After an election has been ordered, all expenses
 31 associated with conducting city general and special elections shall be paid
 32 from the county election fund as provided by section 34-1411, Idaho Code.
 33 Expenses associated with conducting runoff elections shall be paid by the
 34 city adopting runoff elections pursuant to the provisions of section 50-612
 35 or 50-707B, Idaho Code, or both.

36 (6) The secretary of state is authorized to provide such assistance as
 37 necessary and to prescribe any needed rules or interpretations for the con-
 38 duct of elections authorized under the provisions of this section.

39 SECTION 13. That Section 67-4911, Idaho Code, be, and the same is hereby
 40 amended to read as follows:

41 67-4911. ELECTIONS -- TERMS OF OFFICE. (1) On ~~an the~~ the election date ~~as~~
 42 provided for in section 34-106(1) (a), Idaho Code, in May of the first odd-
 43 numbered year after the organization of any district, and every second year
 44 thereafter, an election shall be held, which shall be known as the biennial
 45 election of the district.

46 (2) At the first biennial election in any district hereafter organized,
 47 and each sixth year thereafter, there shall be elected by the qualified elec-
 48 tors of the district, one (1) member of the board to serve for a term of six
 49 (6) years; at the second biennial election and each sixth year thereafter,

1 there shall be elected two (2) members of the board to serve for terms of six
2 (6) years, and at the third biennial election, and each sixth year there-
3 after, there shall be elected two (2) members of the board to serve for terms
4 of six (6) years. Provided, a member of the board once in office shall serve
5 until his successor is elected, qualified and takes office.

6 (3) Nominations may be filed during the time period provided in section
7 34-1404, Idaho Code. The county clerk shall provide for holding such elec-
8 tion and shall appoint judges to conduct it. The county clerk shall give no-
9 tice of election by publication, and shall arrange such other details in con-
10 nection therewith. Adequate polling places shall be provided throughout the
11 district boundaries for all elections.

12 (4) The returns of the election shall be certified to and shall be
13 canvassed and declared by the board of county commissioners which shall
14 report the results to the district. The candidate or candidates, according
15 to the number of directors to be elected, receiving the most votes, shall
16 be elected. Any new member of the board shall qualify in the same manner as
17 members of the first board qualify.

18 (5) In any election for director, if after the deadline for filing a
19 declaration of intent as a write-in candidate it appears that the number of
20 qualified candidates who have been nominated is equal to the number of di-
21 rectors to be elected, it shall not be necessary for the candidates to stand
22 for election and the board shall declare such candidates elected as direc-
23 tors and the secretary of the board shall immediately make and deliver to
24 such persons certificates of election signed by him and bearing the seal of
25 the district.

26 SECTION 14. An emergency existing therefor, which emergency is hereby
27 declared to exist, this act shall be in full force and effect on and after
28 July 1, 2026.