

TITLE 27
CEMETERIES AND CREMATORIIUMS

CHAPTER 1
CEMETERY MAINTENANCE DISTRICT LAW

27-101. PURPOSE AND POLICY OF LAW -- SHORT TITLE. The maintaining, improving and beautifying of cemeteries for the burial of the human dead is hereby declared to be one of the first considerations of a civilized people and a fixed and permanent policy of the state of Idaho, and the same is hereby declared to be a public benefit, use and purpose, and there is hereby imposed upon the cemetery maintenance boards, provided for in this act, the duty of beautifying, improving and maintaining the cemetery or cemeteries within their cemetery maintenance districts. And it is hereby declared and determined that any and all property within any cemetery maintenance district created under the provisions of this act is and shall be benefited ratably with all other property within such district, in proportion to its assessed valuation by the creation of such district and by any and all improvements to the cemetery or cemeteries within such district for the maintenance of which such district was created, and that all property within any such district shall be assessed equally in proportion to its assessed valuation for the purpose of cemetery improvement and maintenance under the provisions of this act.

This act shall be known as the Cemetery Maintenance District Law of the state of Idaho, and whenever cited, enumerated, referred to or amended, may be designated as the Cemetery Maintenance District Law, adding when necessary, the number of the section.

[(27-101) 1927, ch. 197, sec. 1, p. 264; am. 1929, ch. 268, sec. 2, p. 621; I.C.A., sec. 27-101; I.C., sec. 28-101 (1948 Ed.); am. 1967, ch. 214, sec. 1, p. 644.]

27-102. CREATION AND ORGANIZATION OF DISTRICT. Whenever fifteen (15) or more of the holders of title, or evidence of title, to lands aggregating not less than six thousand (6,000) acres of contiguous territory, or consisting of contiguous territory of less extent but having market value for assessment purposes of at least one million dollars (\$1,000,000) at the last preceding county assessment, desire to provide for the organization of the same as a cemetery maintenance district, none of their said lands being included within the boundaries of an already created and organized cemetery maintenance district under the terms of this act, such district may be created and organized as hereinafter provided.

[(27-102) 1927, ch. 197, sec. 2, p. 264; am. 1929, ch. 268, sec. 3, p. 621; I.C.A., sec. 27-102; I.C., sec. 28-101 (1948 Ed.); am. 1980, ch. 350, sec. 2, p. 887.]

27-103. JOINT COUNTY CEMETERY MAINTENANCE DISTRICTS -- COMMISSIONERS. When the boundaries of a proposed cemetery maintenance district lie in two (2) or more counties, each county shall act separately in the election and organization of that part of the proposed cemetery maintenance district contained in its county: Provided that the boards of county commissioners of each county so joining, shall meet together upon the presentation of the petition to their respective bodies, asking for such proposed district, and provide for uniform proceedings in each county. When two (2) counties join

in a cemetery maintenance district, the county having the larger population within the district (,) shall appoint two (2) of the three (3) cemetery maintenance commissioners and the county having the smaller population within the district, one (1) commissioner. When three (3) counties join in such district, each county shall appoint one (1) commissioner; when more than three (3) counties join in such district, the three (3) counties having the largest population shall each appoint one (1) commissioner.

[(27-103) I.C.A., sec. 27-102A, as added by 1945, ch. 200, sec. 1, p. 325; I.C., sec. 28-103 (1948 Ed.).]

27-104. PETITION. A petition shall first be presented to the board of county commissioners and filed with the clerk of the board of commissioners of the county in which the proposed cemetery maintenance district is situated, signed by the number of holders of title, or evidence of title specified in section 27-102, which petition shall plainly and clearly designate the boundaries of the proposed cemetery maintenance district and shall state the name of the proposed district, and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith shall, at all proper hours, be open to public inspection in the office of said clerk of the board of commissioners between the date of their said filing and the date of the election. The petition may be in one (1) paper or in several papers.

[(27-104) 1927, ch. 197, sec. 3, p. 264; am. 1929, ch. 268, sec. 4, p. 621; I.C.A., sec. 27-103; I.C., sec. 28-104 (1948 Ed.).]

27-105. NOTICE OF HEARING OF PROTEST. When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition, which time shall not be less than four (4) nor more than six (6) weeks, from the date of the presentation and filing of such petition. A notice of the time of such hearing shall be published by said board, once each week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within the county in which said district is situated. Said notice shall state that a cemetery maintenance district is proposed to be organized, giving the proposed boundaries thereof, and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any objection to the organization of such district, the proposed boundaries thereof or the including or excluding of any real property therein or therefrom. After hearing and considering any and all objections, if any such be interposed, the county commissioners shall thereupon make an order thereon either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided by this act, and a map showing the boundaries of such proposed district as finally fixed and determined by the board of county commissioners shall be prepared and filed in the office of the clerk of said board.

[(27-105) 1927, ch. 197, sec. 4, p. 264; am. 1929, ch. 268, sec. 5, p. 621; I.C.A., sec. 27-104; I.C., sec. 28-105 (1945 Ed.).]

27-106. NOTICE OF ELECTION. After the county commissioners have made their order finally fixing and determining the boundaries of the proposed

district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed cemetery maintenance district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed cemetery maintenance district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published first not less than twelve (12) days prior to the election and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words "... cemetery maintenance district, yes," or "... cemetery maintenance district, no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district for thirty (30) days or more next preceding the election.

[(27-106) 1927, ch. 197, sec. 5, p. 264; I.C.A., sec. 27-105; I.C., sec. 28-106 (1948 Ed.); am. 1982, ch. 254, sec. 4, p. 650; am. 1995, ch. 118, sec. 15, p. 445.]

27-107. ELECTION -- QUALIFICATION OF ELECTORS -- CANVASS. Such election shall be conducted in accordance with chapter 12 and chapter 14, title 34, Idaho Code. The board of county commissioners shall establish as many election precincts within such proposed cemetery maintenance district as may be necessary, and define the boundaries thereof. The county clerk shall appoint judges of election, who shall perform the duties as judges of election under the provisions of title 34, Idaho Code; and the result of such election shall be certified, and canvassed and declared by the board of county commissioners.

[(27-107) 1927, ch. 197, sec. 6, p. 264; I.C.A., sec. 27-106; I.C., sec. 28-107 (1948 Ed.); am. 1982, ch. 254, sec. 5, p. 651; am. 1995, ch. 118, sec. 16, p. 446; am. 2009, ch. 341, sec. 10, p. 1000.]

27-108. CANVASS BY BOARD OF COMMISSIONERS -- VALIDITY OF ORGANIZATION. Immediately after any election for voting upon the organization of a cemetery maintenance district, the judges of said election shall forward the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall meet within ten (10) days after said returns are received and shall proceed to canvass the votes cast at such election, and if, upon canvass, it shall appear that one-half (1/2) or more of said votes are "... cemetery maintenance district, no," then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void. If, however, it shall appear upon such canvass, that more than one-half (1/2) of the votes cast are "... cemetery maintenance district, yes," the board shall, by order entered on its minutes, declare such territory duly organized as a cemetery maintenance district under the name designated in the petition. After the election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number or qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of such

organization after six (6) months from and after the making and entering of the order provided for in this section. Such board shall cause one (1) copy of such order, duly certified, to be filed for record in the office of the county recorder of the county in which said district is situated and shall transmit to the governor one (1) certified copy thereof.

From and after the date of such filing of said order of the board of county commissioners declaring such territory duly organized as a cemetery maintenance district, the organization of such district shall be complete.

[(27-108) 1927, ch. 197, sec. 7, p. 264; I.C.A., sec. 27-107; I.C., sec. 28-108 (1948 Ed.).]

27-109. CEMETERY MAINTENANCE BOARD -- APPOINTMENT OF COMMISSIONERS -- OATH. There shall be three (3) cemetery maintenance commissioners in each district, who shall constitute the cemetery maintenance board. The first cemetery maintenance commissioners of such cemetery maintenance district shall be appointed by the board of county commissioners. If the district is to be situated in two (2) or more counties, the boards of county commissioners for those counties shall coordinate a joint public meeting whereby the appointment shall be made by a majority of all county commissioners present at the joint public meeting. If the county commissioners cannot agree on the appointment of a commissioner, all the interested persons who received the highest and equal number of votes shall have their names placed in a container. The county commissioner with the most continuous length of service shall draw one (1) name from the container. The person whose name is drawn shall then be appointed to fill the vacancy. The certificate of such appointment shall be made in triplicate: one (1) certificate shall be filed in the office of the county recorder of the county, one (1) with the clerk of the board of county commissioners, and one (1) with the assessor and tax collector of the county. Every cemetery maintenance commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the board of cemetery maintenance commissioners.

[27-109. added 1927, ch. 197, sec. 8, p. 264; I.C.A., sec. 27-108; I.C., sec. 28-109 (1948 Ed.); am. 2017, ch. 128, sec. 1, p. 298.]

27-110. TERM OF OFFICE -- VACANCIES. (1) At the meeting of the board of county commissioners at which the cemetery maintenance district is declared organized, as provided by section 27-108, Idaho Code, said board of county commissioners shall divide the cemetery maintenance district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as cemetery maintenance commissioners subdistricts one, two and three. Not more than one (1) of said commissioners shall be an elector of the same cemetery maintenance subdistrict. The first commissioners appointed by the board of county commissioners shall serve until the next cemetery maintenance district election, at which their successors shall be elected. Any vacancy occurring in the office of the cemetery maintenance commissioner, other than by the expiration of the term of office, shall be filled by the cemetery maintenance board.

(2) A cemetery maintenance district created from the consolidation of two (2) or more cemetery maintenance districts as provided in section 27-129, Idaho Code, may operate with five (5) cemetery maintenance commissioners subdistricts.

[27-110, added 1927, ch. 197, sec. 9, p. 264; I.C.A., sec. 27-109; I.C., sec. 28-110 (1948 Ed.); am. 2017, ch. 128, sec. 2, p. 299; am. 2018, ch. 196, sec. 1, p. 440.]

27-111. ELECTION OF COMMISSIONERS. (1) On the first Tuesday following the first Monday in November and every odd-numbered year thereafter, three (3) cemetery maintenance district commissioners shall be elected by the electors of each cemetery district as defined in section 27-104, Idaho Code. For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year. The county clerk shall conduct the election in a manner consistent with statutory provisions of chapter 14, title 34, Idaho Code.

(2) For cemetery maintenance districts consisting of less than one hundred fifty (150) registered electors, the cemetery maintenance district commissioners may be elected at large. For all other districts, of the commissioners comprising the board at any one time, not more than one (1) shall be an elector of the same cemetery maintenance commissioners subdistrict. A commissioner shall be an elector of the subdistrict which he represents at the time of his declaration of candidacy and during his term of office. A qualified elector of the cemetery maintenance district shall be eligible to vote for each of the cemetery maintenance district commissioners. At the first election following the formation of a cemetery maintenance district, commissioners from cemetery maintenance subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery maintenance subdistrict three (3) shall be elected for a term of two (2) years; thereafter the term of office of all commissioners shall be four (4) years. All elections held under this law, shall be held in conformity with the general laws of the state, including chapter 14, title 34, Idaho Code.

(3) In any election for cemetery maintenance district commissioners, if, after the expiration of the date for filing a declaration of intent as a write-in candidate for the office of commissioner, it appears that only one (1) qualified candidate has been nominated for each position to be filled, it shall not be necessary to hold an election, and the board of commissioners shall declare such candidate elected as commissioner, and the secretary shall immediately make and deliver to such person a certificate of election signed by him bearing the seal of the district. The procedure set forth in this subsection shall not apply to any other cemetery maintenance district election.

(4) A cemetery maintenance district created from the consolidation of two (2) or more cemetery maintenance districts as provided in section 27-129, Idaho Code, may operate with five (5) cemetery maintenance commissioners.

[(27-111) 1927, ch. 197, sec. 10, p. 264; I.C.A., sec. 27-110; I.C., sec. 28-111 (1948 Ed.); am. 1967, ch. 14, sec. 1, p. 23; am. 1982, ch. 250, sec. 1, p. 641; am. 1995, ch. 118, sec. 17, p. 446; am. 2009, ch. 341, sec. 11, p. 1001; am. 2018, ch. 196, sec. 2, p. 440.]

27-112. ANNEXATION OR EXCLUSION OF TERRITORY FROM DISTRICT -- PROCEDURE. After the organization of a cemetery maintenance district, additional territory adjoining such district, and lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district, by the affirmative vote of a majority of the qualified electors

of such additional territory voting on the question at an election held therefor, which vote may be taken at an election held as provided in sections 27-106 and 34-106, Idaho Code. But such additional territory shall not be annexed to or be included within the district unless such annexation and inclusion be first approved by the cemetery maintenance board of the existing district by resolution entered on the minutes of such board prior to the election on the question of annexation. The same procedure, with such modifications in the form of petition, notices, ballots, etc., as may be necessary shall be adopted as in this law provided in sections 27-102 and 27-104--27-107, Idaho Code, inclusive: A petition signed by a majority of the owners of lands lying within the boundaries of the area proposed to be annexed such lands lying within the boundaries of any cemetery maintenance district heretofore created requesting the withdrawal and exclusion of lands described in said petition from such district and setting forth that the people residing upon said lands are not served by the cemetery or cemeteries within the boundaries of said district, that said people are served by other cemeteries within the county, and that the exclusion and withdrawal of said lands from said district will not reduce the market value for assessment purposes of the lands remaining in said district below five million dollars (\$5,000,000), may be presented and filed with the board of county commissioners of the county within which said district is located. Upon the presentation and filing of such petition said board of county commissioners shall immediately fix a time and place for a hearing on said petition when and where any elector of said district may appear and be heard in support of or opposition to said petition. Notice of said hearing shall be given by said board by publication in one (1) issue of a newspaper of general circulation in said cemetery district at least ten (10) days prior to the date of said hearing and a copy of said notice shall be served by registered mail or personally on the president and secretary of the cemetery district commissioners. If after a hearing on said petition the board of county commissioners determines that the people residing upon the land sought to be withdrawn from such cemetery district are not served by the cemetery or cemeteries within such district, that said people are served by other cemeteries within the county, and that the exclusion and withdrawal of said lands from said district will not reduce the market value for assessment purposes of the lands remaining therein below five million dollars (\$5,000,000), said commissioners shall make and enter such findings in the minutes of their meeting and make and enter an order authorizing and directing the withdrawal and exclusion of said lands from said cemetery district. Provided that the land so ordered to be withdrawn and excluded from said cemetery district be either annexed to an adjoining cemetery district which does serve said petitioners, or, if not served by an adjoining cemetery district, that said lands be included in the formation of a new cemetery district which does serve said petitioners.

A copy of such findings and order shall be served upon the president and secretary of the cemetery district commissioners, and county assessor, personally, or by registered mail. If the entry of such findings and order be made prior to the 4th Monday of June the lands annexed shall be excluded and withdrawn from the said cemetery district of which they were formerly a part and shall not be subject to assessment made and levied by said former district for the current fiscal year or subsequent years; provided, however, that such lands shall be subject to assessment made and levied for the current fiscal year and subsequent years by the new cemetery district of which

they are made a part. If the entry of such findings and order be made subsequent to the 4th Monday of June the lands annexed shall be subject to assessment made and levied by the cemetery district of which they were formerly a part for the current fiscal year but shall thereafter be subject to assessment made and levied by the new cemetery district of which they are made a part. If said county commissioners do not find such facts they shall make and enter findings as to the facts which may exist and deny such petition. The costs in connection with giving the notices herein required shall be paid by petitioners.

[(27-112) 1927, ch. 197, sec. 11, p. 264; I.C.A., sec. 27-111; am. 1947, ch. 115, sec. 1, p. 272; I.C., sec. 28-112 (1948 Ed.); am. 1957, ch. 51, sec. 1, p. 87; am. 1959, ch. 69, sec. 1, p. 147; am. 1963, ch. 337, sec. 1, p. 965; am. 1980, ch. 350, sec. 3, p. 888; am. 1995, ch. 118, sec. 18, p. 447.]

27-113. ANNEXATION OF TERRITORY IN ADJOINING COUNTY. After the organization of a cemetery maintenance district, additional territory adjoining such district and contiguous thereto, and located wholly within an adjoining county, may be added to such district and become a part thereof as hereinafter provided. The proceedings for such annexation shall be the same as the proceedings for the creation and organization of a cemetery maintenance district with the following exceptions and modifications:

a. Such proceeding may be initiated by ten (10) or more of the holders of title or evidence of title to contiguous lands aggregating not less than two thousand (2000) acres, or of less area but having a market value for assessment purposes of at least five hundred thousand dollars (\$500,000).

b. A petition, such as is required by section 27-104, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of such territory, and also name and describe the cemetery maintenance district to which annexation is sought, and shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. Such petition must be accompanied by a certified copy of a resolution of the board of cemetery maintenance commissioners of the original district consenting to such annexation.

c. The notice of hearing on such petition shall state that certain territory therein described is proposed to be annexed to a cemetery maintenance district therein named and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections thereto at the time and place therein specified. The order entered by the local board of county commissioners on such petition shall, if such petition be granted, fix the boundaries of such annexed territory and direct that a map thereof be prepared under the direction of the clerk of the board, and certified copies of such order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original cemetery maintenance district is situated.

d. An election shall be held in the territory proposed to be annexed for the purpose of voting upon such annexation and the notice thereof shall accurately describe the boundaries of the territory proposed to be annexed, and shall state the name of the district to which annexation is sought, and that a map showing the boundaries of such district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of

county commissioners. Such notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to . . . Cemetery Maintenance District" and "Against annexation to . . . Cemetery Maintenance District," and shall direct that the voter indicate his choice thereon by a cross (X).

e. The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to . . . Cemetery Maintenance District." The returns of such election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from such canvass that more than one-half (1/2) of said voters are in favor of such annexation, such board shall, by order entered on its minutes, declare such territory a part of the cemetery maintenance district to which annexation is sought, and a certified copy of such order shall be transmitted to the cemetery maintenance board of the original district, and also to the board of the county commissioners of the county in which such original district is situated. A certified copy of such order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. Prior to the next district election following such annexation the cemetery maintenance board shall divide the district into two (2) subdistricts each of which shall comprise all territory of the district situated within the boundaries of one (1) county, and thereafter the commissioners of such district shall be elected at large; provided, that not more than two (2) members of the cemetery maintenance board shall be residents of the same county; and provided, further, that the commissioner whose term of office first expires after such annexation shall be elected by the voters of the entire district from among the qualified electors of such annexed territory. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to such levy.

[(27-113) 1927, ch. 197, sec. 11A, as added by 1929, ch. 268, sec. 1, p. 621; I.C.A., sec. 27-112; I.C., sec. 28-113 (1948 Ed.); am. 1980, ch. 350, sec. 4, p. 889.]

27-114. ORGANIZATION OF BOARD -- MEETINGS -- OFFICERS -- OFFICIAL BONDS. Immediately after qualifying, the board of cemetery maintenance commissioners shall meet and organize as a board, and at that time, and whenever thereafter vacancies in the respective offices may occur, they shall elect a president from their number, and shall appoint a secretary and treasurer who may also be from their number, all of whom shall hold office during the pleasure of the board, or for terms fixed by the board. The offices of secretary and treasurer may be filled by the same person. Certified copies of all such appointments, under the hand of each of the commissioners, shall be forthwith filed with the clerk of the board of county commissioners and with the tax collector of the county.

As soon as practicable after the organization of the first board of cemetery maintenance commissioners, and thereafter when deemed expedient or necessary, such board shall designate a day and hour on which regular

meetings shall be held and a place for the holding thereof, which shall be within the district. Regular meetings shall be held at least quarterly. The minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. Such list shall be signed by the chairman and attested by the secretary: provided, that all special meetings must be ordered by the president or a majority of the board, the order must be entered of record, and the secretary must give each member not joining in the order, five (5) days' notice of special meetings: provided, further, that whenever all members of the board are present, however called, the same shall be deemed a legal meeting and any lawful business may be transacted. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business. All records shall be open to the inspection of any elector during business hours.

The officers of the district shall take and file with the secretary, an oath for the faithful performance of the duties of the respective offices. The treasurer shall on his appointment execute and file with the secretary an official bond in such an amount as may be fixed by the cemetery maintenance board but in no case less than ten thousand dollars (\$10,000).

[(27-114) 1927, ch. 197, sec. 12, p. 264; I.C.A., sec. 27-113; I.C., sec. 28-114 (1948 Ed.); am. 2006, ch. 24, sec. 1, p. 82.]

27-115. CEMETERY MAINTENANCE DISTRICTS ARE BODIES CORPORATE. Every cemetery maintenance district organized as provided by law is a body politic and corporate, and as such has the power specified in this chapter. Its powers can be exercised only by the cemetery board or by agents and officers acting under their authority, or authority of law. The name of the district designated in the order of the board of county commissioners declaring the territory duly organized as a cemetery maintenance district, shall be the corporate name of such district, and it must be known and designated thereby in all actions and proceedings touching its corporate right, property and duties.

[(27-115) 1927, ch. 197, sec. 13, p. 264; I.C.A., sec. 27-114; I.C., sec. 28-115 (1948 Ed.).]

27-116. CORPORATE POWERS. Each cemetery maintenance district has power:

1. To sue and be sued.
2. To acquire, hold, use, manage, occupy, possess, lease, exchange, sell and convey lands, make such contracts, and acquire, hold, use, manage, occupy, possess, lease, exchange, sell and convey such personal property as may be necessary or convenient for the purposes of this chapter.
3. To levy and apply such taxes for purposes under its exclusive jurisdiction as are authorized by law.
4. To acquire from a city or county, by gift or purchase, a cemetery and endowment, or other, funds pertaining thereto and to hold, use, manage, occupy, possess, lease, exchange, sell, convey, operate, maintain, improve and beautify such cemetery for the burying of the dead.

[(27-116) 1927, ch. 197, sec. 14, p. 264; I.C.A., sec. 27-115; I.C., sec. 28-116 (1948 Ed.); am. 1955, ch. 123, sec. 1, p. 250; am. 1967, ch. 214, sec. 2, p. 644; am. 1993, ch. 256, sec. 1, p. 882.]

27-117. GENERAL POWERS AND DUTIES OF BOARD OF CEMETERY MAINTENANCE COMMISSIONERS. The board of cemetery maintenance commissioners shall have power to manage and conduct the business and affairs of the district, make and execute all necessary contracts, and make and adopt all necessary rules and regulations for carrying out the purposes of this law.

[(27-117) 1927, ch. 197, sec. 15, p. 264; I.C.A., sec. 27-116; I.C., sec. 28-117 (1948 Ed.).]

27-118. CEMETERY MAINTENANCE DISTRICT HAS LEGAL TITLE TO PROPERTY -- PROCEDURE FOR SALE OR EXCHANGE. The legal title to all property acquired under the provisions of this chapter shall immediately and by operation of law, vest in such cemetery maintenance district, and shall be held by such district in trust for, and is hereby dedicated and set apart to the uses and purposes set forth in this chapter. Said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, possess, lease, exchange, sell and convey said property as in this chapter provided; and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this chapter or acquired in pursuance thereof. In all courts, actions, suits or proceedings, the said board may sue, appear and defend, in person or by attorneys, and in the name of such cemetery maintenance district.

Real or personal property may be sold, exchanged, conveyed and disposed of by the board of commissioners whenever it finds and by resolution declares that the district no longer has use therefor, subject to the following procedure:

(a) If in the opinion of the board any such property does not exceed \$500 in value, the same may be sold or exchanged without independent appraisal, notice or competitive bids.

(b) All such real property, and any such personal property exceeding \$500 in value, shall be appraised by three (3) disinterested residents of the county in which the district is located, who shall be selected by the board. It may then be sold or exchanged at private or public sale after due notice, to the highest bidder for cash or on terms, at not less than its appraised value.

(c) Due notice of sale or exchange shall be accomplished if the notice shall describe the property to be sold or exchanged (legal description, if real property), state the appraised value thereof (by separate items, if so appraised), and specify the time, place and conditions of sale. Said notice shall be published in a newspaper having general circulation in the district at least twice, the first publication thereof to be not less than 10 days preceding the day of sale.

(d) If such property is sold on terms, the board may contract for the sale of the same for a period not exceeding 10 years, with interest at the legal rate on all deferred payments. The title to all property sold on contract shall be retained in the name of the district until full payment has been made by the purchaser. Any property sold by the board under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as though the purchaser held a record title to the property so sold. The board shall have authority to cancel any contract of sale, pursuant to law, if the purchaser shall fail to comply with any of the terms of such contract, and retain all

payments paid thereon. The board may by agreement with the purchaser modify or extend any of the terms of any contracts of sale, but the total term shall not exceed 10 years.

(e) Upon final payment pursuant to the sale or exchange of such property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate deed or bill of sale to the purchaser.

[(27-118) 1927, ch. 197, sec. 16, p. 264; I.C.A., sec. 27-117; I.C., sec. 28-118 (1948 Ed.); am. 1967, ch. 214, sec. 3, p. 644.]

27-119. COMPENSATION AND EXPENSES OF CEMETERY MAINTENANCE BOARD COMMISSIONERS. The cemetery maintenance board commissioners may receive compensation of not more than twenty-five dollars (\$25.00) per day for each day spent engaged in meetings or on district business authorized by the board; provided that no commissioner shall receive per diem payments totaling more than one thousand dollars (\$1,000) during any fiscal year of the district for their services as commissioners. Commissioners also shall receive the amount of their actual and necessary expenses incurred in the performance of their official duties. The board shall fix the compensation, if any, to be paid to the commissioners and other officers named in this chapter, and of the agents and employees of the board to be paid out of the treasury of the district.

[(27-119) 1927, ch. 197, sec. 17, p. 264; I.C.A., sec. 27-118; I.C., sec. 28-119 (1948 Ed.); am. 1989, ch. 250, sec. 1, p. 599.]

27-120. AUDITOR TO FURNISH ASSESSED VALUATION -- BOARD TO MAKE LEVY. On or before the third Monday in July of each year, the county auditor shall deliver to the secretary of each cemetery maintenance district within the county a statement showing the aggregate valuation of all the taxable property in such district; and thereafter the cemetery board shall levy the taxes herein provided for.

[(27-120) 1927, ch. 197, sec. 18, p. 264; I.C.A., sec. 27-119; I.C., sec. 28-120 (1948 Ed.); am. 2012, ch. 38, sec. 1, p. 115.]

27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At the last regular meeting of the cemetery maintenance board prior to the second Monday of September in each year, the cemetery board of each cemetery maintenance district may levy for cemetery purposes a property tax in each cemetery maintenance district of not more than four hundredths of one percent (.04%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district. Upon the levy being made by the cemetery maintenance board under this section, it shall be the duty of the secretary of the district to transmit to the county auditor and county assessor and the state tax commission certified copies of the resolution providing for such levy as provided in section 63-808, Idaho Code. Said taxes shall be collected as provided in section 63-812, Idaho Code.

(2) If two (2) or more cemetery maintenance districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district, which, in the year of the consolidation, has the highest levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts.

(3) An additional property tax of not more than six hundredths of one percent (.06%) of the market value for assessment purposes on all taxable property within the cemetery maintenance district may be levied by the cemetery board for the sole and express purpose of acquisition of burial ground. The proceeds from such levy may be accumulated by the board for future acquisitions or pledged to the repayment of indebtedness incurred pursuant to section 27-122, Idaho Code, provided that the proposal to levy such additional amount of property tax, or portion thereof, shall have been approved by at least two-thirds (2/3) of the qualified electors residing in the cemetery maintenance district at a previous election held in accordance with the provisions of section 34-106, Idaho Code.

[(27-121) 1927, ch. 197, sec. 19, p. 264; I.C.A., sec. 27-120; am. 1943, ch. 27, sec. 1, p. 55; I.C., sec. 28-121 (1948 Ed.); am. 1963, ch. 341, sec. 1, p. 978; am. 1977, ch. 115, sec. 1, p. 247; am. 1982, ch. 101, sec. 1, p. 280; am. 1995, ch. 82, sec. 4, p. 221; am. 1995, ch. 118, sec. 19, p. 449; am. 1996, ch. 322, sec. 6, p. 1036; am. 2015, ch. 244, sec. 12, p. 1014; am. 2018, ch. 196, sec. 3, p. 441.]

27-122. INDEBTEDNESS PROHIBITED -- EXCEPTION. The cemetery maintenance board or other officers of the district, shall have no power to incur any debt or liability whatever, either by issuing bonds or otherwise, in excess of the express provisions of this chapter; and any debt or liability incurred in excess of such provisions shall be and remain absolutely void. However, the board of any district shall have authority to incur indebtedness for the sole purpose of purchasing burial ground, which indebtedness shall not exceed a term of ten (10) years.

[(27-122) 1927, ch. 197, sec. 20, p. 264; I.C.A., sec. 27-121; I.C., sec. 28-122 (1948 Ed.); am. 1965, ch. 110, sec. 1, p. 216; am. 1977, ch. 115, sec. 2, p. 248.]

27-123. DUTIES OF TREASURER OF CEMETERY MAINTENANCE DISTRICT. It is hereby made the duty of the treasurer of the cemetery maintenance district to keep account with such district; to place to the credit of such district all moneys received by him from the collector of taxes or from any other officer charged with the collection of taxes as the proceeds of taxes levied by the cemetery maintenance board, or from any other sources, and of all other moneys belonging to such district and to pay over all moneys belonging to such district on legally drawn warrants or orders of the district officers entitled to draw the same.

[(27-123) 1927, ch. 197, sec. 21, p. 264; I.C.A., sec. 27-122; I.C., sec. 28-123 (1948 Ed.).]

27-124. WARRANTS -- COUNTERSIGNED BY SECRETARY. The secretary shall countersign all drafts and warrants on the district treasury, and no payment of the district funds shall be made except on drafts or warrant[s] countersigned by him. He shall not countersign any such draft or warrant until he has found that the payment has been legally authorized; that the money therefor has been duly appropriated and that such appropriation has not been exhausted.

Such warrants shall be drawn by and countersigned upon the order of the president of the cemetery maintenance board, or in his absence, the other members of the board; but no drafts or warrants shall be drawn except upon the appropriation of the board, nor in excess of the moneys actually in the

district treasury, except that warrants may be issued in anticipation of the collection of taxes, but not in excess of the amount of the levy therefor, nor shall any warrants be issued, nor indebtedness incurred in anticipation of such levy except as herein provided. When a warrant is presented for payment, if there is money in the treasury for the purpose, the treasurer must pay the same and write on the face thereof, "paid," the date of payment, and sign his name thereto.

[(27-124) 1927, ch. 197, sec. 22, p. 264; I.C.A., sec. 27-123; I.C., sec. 28-124 (1948 Ed.).]

27-125. ADOPTION OF BUDGET -- HEARING. A board shall adopt a budget and any board with a proposed budget in excess of thirty-five hundred dollars (\$3,500) shall cause a public hearing to be held upon such budget prior to certifying a tax levy to the board of county commissioners pursuant to the requirements of section 63-802A, Idaho Code.

[27-125, added 1973, ch. 85, sec. 1, p. 135; am. 1974, ch. 43, sec. 1, p. 1082; am. 2018, ch. 196, sec. 4, p. 442.]

27-126. NOTICE OF HEARING -- PUBLICATION -- CONTENTS. Notice of the budget hearing meetings shall be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in each cemetery maintenance district to be determined by the board. A copy of such notice shall also be published in a daily or weekly newspaper published within such cemetery maintenance district, in one (1) issue thereof, during such ten (10) day period. The place, hour and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A full and complete copy of such proposed budget shall be published with and as a part of the publication of such notice of hearing and on the district's official website if one exists. All hearings of the district shall be open to the public and shall permit all persons an opportunity to present oral and written testimony within reasonable time limits.

[27-126, added 1973, ch. 85, sec. 2, p. 135; am. 2018, ch. 196, sec. 5, p. 442.]

27-127. PUBLIC INSPECTION. Such budget shall be available for public inspection from and after the date of the posting of notices of hearing as in this act provided, at such place and during such business hours as the board may direct.

[I.C., sec. 27-127, as added by 1973, ch. 85, sec. 3, p. 135.]

27-128. QUORUM. A quorum of the board shall attend such hearing and explain the proposed budget and hear any and all objections thereto.

[I.C., sec. 27-128, as added by 1973, ch. 85, sec. 4, p. 135.]

27-129. CONSOLIDATION OF DISTRICT -- ELECTION. Any cemetery maintenance district may consolidate with one (1) or more existing cemetery maintenance districts, provided that at least one (1) district in the proposed consolidation contains less than one hundred fifty (150) registered electors when consolidation is proposed, and that none of the districts are farther than ten (10) miles apart from any other district in the proposed consolidation. Such a consolidation is only permitted subject to the following procedure and with the following effects:

(1) If, the board of any cemetery maintenance district determines that consolidation with one (1) or more other existing cemetery maintenance districts would be to the advantage of the district, the board will cause to be prepared an agreement for consolidation that will provide:

- (a) The name of the proposed consolidated cemetery district;
- (b) That all property of the districts to be consolidated will become the property of the consolidated district;
- (c) That all debts of the districts to be consolidated shall become the debts of the consolidated district;
- (d) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 27-111, Idaho Code, at which three (3) commissioners shall be elected, unless the agreement of consolidation establishes a five (5) member board, in which case five (5) commissioners shall be elected. If the board consists of three (3) members, commissioners from cemetery subdistricts one (1) and two (2) shall be elected for terms of four (4) years, and the commissioner from cemetery subdistrict three (3) shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, the commissioners from cemetery subdistricts one (1), three (3) and five (5) shall be elected for terms of four (4) years, and the commissioners from cemetery subdistricts two (2) and four (4) shall be elected for an initial term of two (2) years. Thereafter, the term of all commissioners shall be four (4) years; and
- (e) At least one (1) public hearing shall be held by the boards of cemetery district commissioners prior to the election.

(2) After approval of the agreement by each of the cemetery maintenance district boards, such consolidation must then be presented to the electors of the cemetery districts for ratification in order to take effect. An election ratifying an agreement consolidating cemetery maintenance districts must be held in an even-numbered year on the dates provided in section 34-106(1) (a) and (b), Idaho Code. The board of each district involved in the proposed consolidation must approve the agreement at least eighty (80) days before such an election and the county clerk where each district is located must be notified of the agreement of consolidation at least eighty (80) days before such an election.

(3) The county clerk will provide personal notice of the election by mail to each elector of the district and notice of whether a levy rate would increase as a consequence of the proposed consolidation, detailing the levy rate that would be adopted by consolidation. The election will otherwise be conducted as provided in section 27-106, Idaho Code, except that the question will be "Consolidation of.... cemetery districts, yes," or "Consolidation of.... cemetery districts, no," or words equivalent thereto. If more than one-half (1/2) of the votes cast for each of the affected districts are yes, the agreement will become effective. If more than one-half (1/2) of the votes cast in either of the affected districts are no, the agreement will be void and of no effect.

(4) Upon the agreement of consolidation becoming effective, the board of the consolidated cemetery district will file a certified copy of the agreement with the county recorder and comply with the provisions of section 63-215, Idaho Code. The consolidated district will thereafter have the same rights and obligations as any other district organized under the statutes of this state.

(5) When the agreement of consolidation is filed with the county recorder, the county commissioners will divide the cemetery maintenance district into as many subdistricts as are provided in the agreement of consolidation. The subdistricts will be as nearly equal in population, area and mileage as practicable. The subdistricts will be used in the next election following consolidation and in elections thereafter as provided in subsection (1) (d) of this section and section 27-111, Idaho Code.

(6) An agreement of consolidation will not take effect unless such consolidation complies with the provisions of section 27-121(2), Idaho Code.

[27-129, added 2018, ch. 196, sec. 6, p. 442.]