

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 2
REMOVAL OF COUNTY SEATS AND CHANGE OF COUNTY BOUNDARIES

31-201. TIME FOR HOLDING COUNTY SEAT ELECTION. All elections for the removal of county seats shall be held at the same time and place at which general elections are held.

[(31-201) 1890-1891, p. 57, sec. 118; reen. 1899, p. 33, sec. 105; reen. R.C. & C.L., sec. 466; C.S., sec. 650; I.C.A., sec. 30-201.]

31-202. PETITION FOR REMOVAL. Public notice shall be given of the intention to circulate a petition praying for the removal of the county seat of any county from its then present location to some other point within said county, and in said petition designated, at least ten (10) days before the same is circulated, by publication in some newspaper printed in the county (if there be one), and by posting three (3) printed notices in three (3) public places at the county seat, and a like number at the place to which the county seat is proposed to be removed, in which notices the intent of said petition shall be set forth; and all signers to such petition or petitions shall be void and stricken from such petition if procured six (6) months before the first day of the term of court at which the application is to be made; and whenever such petition or petitions, addressed to the district court of such county, and stating the time when such election shall be held, shall be signed by a number of legal voters of said county, equal in number to a majority of all votes cast at the last general election therein, and shall be filed in the office of the clerk of the district court of said county, not less than twenty (20) nor more than forty (40) days before the first day of the term of said court next preceding the next general election, unless said term commences after the first day of October, then, in such case, the next preceding term. Such petition shall be deemed a proposal to remove the county seat of such county, and the point designated in said petition shall be deemed and taken as fixed by said petition, in pursuance of law, whenever the court shall order an election to such point as hereinafter provided, as the point to which it is proposed to remove the county seat of such county.

[(31-202) 1890-1891, p. 57, sec. 119; reen. 1899, p. 33, sec. 106; reen. R.C. & C.L., sec. 467; C.S., sec. 651; I.C.A., sec. 30-202.]

31-203. PETITION FOR REMOVAL -- HOW SIGNED. Each petitioner signing such petition shall write, or cause to be written, opposite to his name on said petition, the name of the city and ward in which he then resides, if he resides in a city; or, if he does not reside in a city, then the name of the precinct in which he resides at the time of signing such petition; and no person shall sign such petition unless he shall be, at the time, a legal voter at general elections.

[(31-203) 1890-1891, p. 57, sec. 120; reen. 1899, p. 33, sec. 107; reen. R.C. & C.L., sec. 468; C.S., sec. 652; I.C.A., sec. 30-203.]

31-204. PETITION OPEN TO INSPECTION. Said petition or petitions shall, after they are filed in the office of the clerk of the district court of the

county be open to the inspection of any and all citizens of the county, but shall not be removed therefrom.

[(31-204) 1890-1891, p. 57, sec. 121; reen. 1899, p. 33, sec. 108; am. R.C. & C.L., sec. 469; C.S., sec. 653; I.C.A., sec. 30-204.]

31-205. **CONTESTING RIGHT TO SIGN PETITION.** Any citizen and legal voter at general elections in said county may contest the right of any person whose name is subscribed to said petition, to sign such petition under this chapter, and shall have the right to contest said petition as to any names subscribed thereto that he shall have good reason to believe are fictitious: provided, he shall, ten (10) days before the first day of the term of said court, file in the office of the clerk of the district court of such county a list of the names of the persons whose right to sign said petition he is desirous of contesting, together with his affidavit indorsed thereon, that he has good reason to believe, and does verily believe, that such persons named in said list are not legal voters of such county and had no right in law to sign such petition; and shall also file in the office of said clerk, ten (10) days before said term of said court, a list of such names as he has reason to believe are fictitious, together with his affidavit, that he has good reason to believe, and does verily believe, that such names are fictitious; and such persons shall have the right to contest such petitions only as to the names included in said lists.

[(31-205) 1890-1891, p. 57, sec. 122; reen. 1899, p. 33, sec. 109; reen. R.C. & C.L., sec. 470; C.S., sec. 654; I.C.A., sec. 30-205.]

31-206. **PROCEDURE IN CASE OF CONTEST.** It shall be the duty of said court, on the first day of and during said term of court, to hear all evidence for and against said petition or petitions as to the lists of names filed in said court under this chapter, and to strike from such petition or petitions all names proved by competent evidence to be fictitious, and the names of persons having no legal right to sign the same under this chapter. In case there shall be no contest, or if the court finds, after striking from said petition or petitions all names proved to be fictitious, and all names not legally signed thereto, that it still contains the number of names of legal voters required by this chapter, the court shall order said election according to the prayer of said petition and subject to the provisions of section [34-106](#), Idaho Code. In case of a contest to said petition or petitions, it shall be the duty of the clerk of said court, on request of the persons contesting any petition under the provisions of this chapter, to issue subpoenas for such witnesses as said persons shall name; and it shall be the duty of said clerk, on request of any legal voter of the county for the purpose of sustaining any petition, in like manner to issue subpoenas for such witnesses as he shall name. Said subpoenas to be made returnable to the term of court at which such contest will be made.

[(31-206) 1890-1891, p. 57, sec. 123; reen. 1899, p. 33, sec. 110; am. R.C. & C.L., sec. 471; C.S., sec. 655; I.C.A., sec. 30-206; am. 1995, ch. 118, sec. 20, p. 449.]

31-207. **CONTESTS HAVE PRECEDENCE -- DECISION OF DISTRICT COURT FINAL.** All cases of contest arising upon said petitions or affidavits shall have precedence over all other cases at said term of said court, and shall

be heard and determined at said term, and the decision of the court shall be final.

[(31-207) 1890-1891, p. 57, sec. 124; reen. 1899, p. 33, sec. 111; reen. R.C. & C.L., sec. 472; C.S., sec. 656; I.C.A., sec. 30-207.]

31-208. VOTING FOR REMOVAL OF COUNTY SEAT. The voting for the removal of any county seat shall be by ballot, and each ballot shall have printed or written thereon the words stated in section [31-214](#), Idaho Code. Such ballot shall be smaller than the general election ballots and shall be officially stamped, and there shall be printed or written thereon the words "county seat ballot," and any elector who is registered as provided in [title 34](#), Idaho Code, and who, in addition to being qualified to vote for county officers, has resided in the county six (6) months and in the precinct ninety (90) days, shall be permitted to vote for or against the removal of the county seat by handing to one (1) of the judges of election a county seat ballot, at the same time announcing that he is entitled to vote on the question of the removal of the county seat. If the judges of election are of the opinion that the said elector is entitled to vote on the question of the removal of the county seat, his ballot shall then be deposited in the ballot box, and the clerks of election shall write opposite his name in brackets the words "county seat" or "county division," as the case may be.

[(31-208) 1890-1891, p. 57, sec. 125; reen. 1899, p. 33, sec. 112; am. R.C. & C.L., sec. 473; C.S., sec. 657; I.C.A., sec. 30-208; am. 2022, ch. 111, sec. 13, p. 377.]

31-209. CHALLENGING VOTERS. Any person who offers to vote on the question of the removal of the county seat may be challenged by any person and for any of the reasons allowed for other challenges, and the rules provided for other challenges shall apply to such challenges.

[(31-209) 1890-1891, p. 57, sec. 126; reen. 1899, p. 33, sec. 113; reen. R.C. & C.L., sec. 474; C.S., sec. 658; I.C.A., sec. 30-209.]

31-210. CANVASS OF RETURNS. The returns for county seat elections shall be canvassed by the same officers and in the same manner as the returns for county and precinct officers are canvassed, and the result of the vote for the removal of the county seat shall be officially declared by the county board of canvassers in the following manner:

They shall record the total votes cast in each ward or precinct both for and against the proposed removal, upon the book provided for recording the results of the general election. This record shall be made upon a separate page, or pages, of said book, and after the record is complete and the total result known, they shall make a complete copy of such record, certified to by each member of the board. They shall deposit this certificate with the county auditor, who shall, without delay, file the same with the clerk of the district court which authorized the election, and the auditor shall also cause a copy of the certificate to be published in some newspaper of general circulation in the county.

[(31-210) 1890-1891, p. 57, sec. 127; reen. 1899, p. 33, sec. 114; reen. R.C. & C.L., sec. 475; C.S., sec. 659; I.C.A., sec. 30-210.]

31-211. RESULT OF VOTE. When the attempt has been made to remove the county seat of any county, as in this chapter provided, and the county board of canvassers have found and declared that two-thirds (2/3) of the voters of the county who have voted for or against such removal have voted in favor of such removal, then said county seat of said county is thereby removed to the point named in the petition.

[(31-211) 1890-1891, p. 57, sec. 128; reen. 1899, p. 33, sec. 115; reen. R.C. & C.L., sec. 476; C.S., sec. 660; I.C.A., sec. 30-211.]

31-212. CHANGING COUNTY BOUNDARIES. Whenever the boards of county commissioners of affected counties have by joint ordinance provided that a part of an affected county be stricken off from said county and annexed to an adjoining affected county, the provisions of the constitution being complied with, the qualified electors who have resided ninety (90) days next preceding the first general election after the passage of this chapter within the boundary lines of the territory stricken off and annexed, shall be permitted to vote at said general election, for or against said annexation. If a majority of said electors voting at said election vote in favor of annexation, said territory is then stricken off and annexed, as provided in this chapter: provided, that all the requirements of the constitution have been complied with. If such annexation and change of county boundaries occur, the legislature, at its next regular session, shall redefine the boundaries of the affected counties as set forth in the Idaho Code to conform therewith. The county recorder of the county from which the territory is to be detached may have clearly reproduced by photographing or filming in accordance with the provisions of sections [9-328](#), [9-329](#), and [9-330](#), Idaho Code, into permanent records, all instruments, papers and other matters and things relating to or affecting real property in the territory being detached and annexed. When the costs have been determined for the transcribing and indexing of all instruments, documents, records, maps, papers, and all other matters relating to or affecting the property in the territory to be annexed, which must be transferred to the annexing county, and the copying and preparing for transfer of all pleadings, court records, and other papers in all court actions and court proceedings to be transferred to the annexing county, the board of county commissioners of the county annexing the detached territory shall cause county warrants to be drawn to pay all such costs; said warrants so drawn shall be paid by a tax to be assessed upon all property within the territory being annexed.

[(31-212) 1890-1891, p. 57, sec. 129; reen. 1899, p. 33, sec. 116; am. R.C. & C.L., sec. 477; C.S., sec. 661; I.C.A., sec. 30-212; am. 1949, ch. 56, sec. 1, p. 100; am. 1955, ch. 106, sec. 1, p. 230; am. 2022, ch. 111, sec. 14, p. 377.]

31-213. CONDUCT OF ELECTION. The rules and regulations for voting at county seat elections, as provided in this chapter, so far as they apply to ballots, voting, challenging, canvassing the returns and declaring the result, shall apply to elections for the striking off of any part of any county and annexing the same to any adjoining county.

[(31-213) 1890-1891, p. 57, sec. 130; reen. 1899, p. 33, sec. 117; am. R.C. & C.L., sec. 478; C.S., sec. 662; I.C.A., sec. 30-213.]

31-214. FORM OF BALLOT. It shall be the duty of the auditor of the county wherein it is proposed to hold an election for the removal of the county seat, or changing county lines, to cause to be printed separate ballots at the same time and in the same manner as ballots for the general election are printed.

Such separate ballots shall be three (3) inches square, or as near this size as practicable, and on one side there shall be printed the following words:

For removal of the county) No.

seat to) Yes.

For changing county lines) No.

) Yes.

(As the case may be.)

And the auditor shall send an equal number of these special ballots, with the ballots furnished for the general election, to each voting precinct of the county and at the same time.

[(31-214) 1890-1891, p. 57, sec. 131; reen. 1899, p. 33, sec. 118; reen. R.C. & C.L., sec. 479; C.S., sec. 663; I.C.A., sec. 30-214.]