

TITLE 31  
COUNTIES AND COUNTY LAW

CHAPTER 20  
COUNTY OFFICERS IN GENERAL

31-2001. COUNTY OFFICERS ENUMERATED. The officers of a county are:

1. A sheriff.
2. A clerk of the district court, who shall be ex officio auditor and recorder, and ex officio clerk of the board of county commissioners.
3. An assessor.
4. A prosecuting attorney.
5. A county treasurer, who shall be ex officio public administrator and ex officio tax collector.
6. A coroner.
7. Three (3) members of the board of county commissioners.

[(31-2001) R.S., sec. 2150; am. R.C., sec. 1973; compiled and reen. C.L., sec. 1973; C.S., sec. 3543; I.C.A., sec. 30-1501; am. 1963, ch. 88, sec. 1, p. 283; am. 1970, ch. 120, sec. 3, p. 284.]

31-2002. INVESTIGATIONS AND ACTIONS AGAINST COUNTY ELECTED OFFICERS -- DUTIES OF ATTORNEY GENERAL. (1) Notwithstanding any provision of law to the contrary, the attorney general may conduct an investigation of any allegation of a violation of state criminal law, against a county officer occupying an elective office for violation of state criminal law in his official capacity.

(2) Upon completion of the investigation, the attorney general shall:

- (a) Issue a finding of no further action necessary;
- (b) Suggest training or other nonjudicial remedies; or
- (c) Determine that further investigation or prosecution is warranted and retain the matter and act as special prosecutor.

(3) In furtherance of the duty to conduct investigations set forth in the provisions of this section, the attorney general shall have the authority to issue subpoenas for the production of documents or tangible things that may be relevant to such investigations.

(4) The provisions of this section shall not apply to any alleged violations of the open meetings law as codified in [chapter 2, title 74](#), Idaho Code.

(5) For purposes of this section, a county officer occupying an elective office shall be deemed to have performed an act in his "official capacity" when such act takes place while the officer is working or claims to be working on behalf of his employer at his workplace or elsewhere, while the officer is at his workplace whether or not he is working at the time, involves the use of public property or equipment of any kind or involves the expenditure of public funds.

[31-2002, added 2014, ch. 280, sec. 1, p. 707; am. 2016, ch. 135, sec. 1, p. 399.]

31-2003. APPOINTMENT OF DEPUTIES. Every county officer except a commissioner may appoint as many deputies as may be necessary for the prompt and faithful discharge of the duties of his office.

[(31-2003) R.S., sec. 1815; am. 1888-1889, p. 13, sec. 1; reen. R.C. & C.L., sec. 1975; C.S., sec. 3545; I.C.A., sec. 30-1503; am. 1963, ch. 88, sec. 2, p. 283; am. 1970, ch. 120, sec. 5, p. 284.]

31-2004. DEPUTIES -- APPOINTMENT DURING ABSENCE OF OFFICERS. Any county officer who may be granted leave of absence from the county wherein he resides and holds office, is required to appoint a deputy to act for him and in his place while absent.

[(31-2004) 1874, p. 822, sec. 1; R.S., sec. 1816; reen. R.C. & C.L., sec. 1976; C.S., sec. 3546; I.C.A., sec. 30-1504; am. 1989, ch. 347, sec. 2, p. 874.]

31-2005. FAILURE TO APPOINT DEPUTY DURING ABSENCE. Should any county officer who is granted leave of absence fail to appoint a deputy as required by this chapter, the act granting such leave of absence is null and void and the office vacant, and the vacancy must be filled by the board of county commissioners of the county.

[(31-2005) 1874, p. 822, sec. 2; am. R.S., sec. 1817; reen. R.C. & C.L., sec. 1977; C.S., sec. 3547; I.C.A., sec. 30-1505.]

31-2006. DESIGNATION OF SENIOR DEPUTY. When a county officer has more than one deputy he must designate one, by indorsement upon his appointment, as senior deputy, and in case of a vacancy in the office, by death, resignation, or otherwise, or of the officer's absence, or inability to perform the duties of his office, such deputy must continue to perform the duties of the office during such vacancy, absence or inability.

[(31-2006) R.S., sec. 1818; reen. R.C. & C.L., sec. 1978; C.S., sec. 3548; I.C.A., sec. 30-1506.]

31-2007. APPOINTMENT TO BE DOCUMENTED AND FILED. The appointment of deputies and subordinate officers must be documented and filed in the office of the county recorder.

[(31-2007) 1874, pp. 543, sec. 14; 1874, p. 556, sec. 6; R.S., sec. 1819; reen. R.C. & C.L., sec. 1979; C.S., sec. 3549; I.C.A., sec. 30-1507; am. 1989, ch. 347, sec. 3, p. 874.]

31-2008. USE OF OFFICIAL NAME INCLUDES DEPUTIES. Whenever the official name of any principal officer is used in any law conferring power, or imposing duties or liabilities, it includes his deputies.

[(31-2008) R.S., sec. 1820; am. and reen. R.C. & C.L., sec. 1980; C.S., sec. 3550; I.C.A., sec. 30-1508.]

31-2009. OFFICES TO BE KEPT AT THE COUNTY SEAT -- OFFICE HOURS. Sheriffs, recorders, treasurers, assessors, and in counties having a population of over 7,500, prosecuting attorneys must have their offices at the county seat, and keep them open for the transaction of business on such days and during such hours as the boards of county commissioners may prescribe. Provided, that in counties having a population of 7,500 or less, the prosecuting attorney must have an office at the county seat and must, by and with the ap-

proval of the board of county commissioners, establish such rules and hours for official business as may be necessary for the dispatch thereof.

[(31-2009) R.S., sec. 1822; am. and reen. R.C. & C.L., sec. 1981; C.S., sec. 3551; I.C.A., sec. 30-1509; am. 1941, ch. 44, sec. 1, p. 97; am. 1947, ch. 194, sec. 1, p. 471; am. 1955, ch. 134, sec. 1, p. 273; am. 1957, ch. 134, sec. 1, p. 227; am. 1963, ch. 11, sec. 1, p. 22; am. 1970, ch. 120, sec. 6, p. 284.]

31-2010. BOND LIABLE FOR PENALTIES. Whenever, except in criminal prosecutions, any special penalty, forfeiture or liability is imposed on any officer for nonperformance or malperformance of official duty, the liability therefor attaches to the official bond of such officer and to the principal and sureties thereon.

[(31-2010) R.S., sec. 1823; reen. R.C. & C.L., sec. 1982; C.S., sec. 3552; I.C.A., sec. 30-1510.]

31-2011. OFFICERS MAY ADMINISTER OATHS. Every county officer may administer and certify oaths.

[(31-2011) R.S., sec. 1824; reen. R.C. & C.L., sec. 1983; C.S., sec. 3553; I.C.A., sec. 30-1511; am. 1970, ch. 120, sec. 7, p. 284.]

31-2013. ABSENCE OF OFFICERS FROM THE STATE. No county officer must absent himself from the state for more than twenty (20) days unless with the consent of the board of county commissioners: providing however, that where any elective or appointive county officer is required to absent himself by reason of being a member of the armed forces of the nation or by reason of official call to service in civilian war work, the consent of the board of county commissioners shall not be necessary.

[(31-2013) R.S., sec. 1826; am. 1897, p. 15, sec. 1; reen. 1899, p. 13, sec. 2; reen. R.C. & C.L., sec. 1985; C.S., sec. 3555; I.C.A., sec. 30-1513; am. 1943, ch. 66, sec. 2, p. 136; am. 1945, ch. 164, sec. 5, p. 245.]

31-2014. CERTAIN OFFICERS NOT TO PRACTICE LAW. Sheriffs, clerks of courts and their deputies are prohibited from practicing law or acting as attorneys or counselors-at-law, or having as a partner a lawyer or any one who acts as such. Provided, however, any county elected official, with the approval of the board of county commissioners, may hire an attorney to act as his legal advisor.

[(31-2014) R.S., sec. 1827; reen. R.C. & C.L., sec. 1986; C.S., sec. 3556; I.C.A., sec. 30-1514; am. 1989, ch. 347, sec. 4, p. 874.]

31-2015. BONDS OF OFFICERS -- AMOUNT OF PENALTY. County, and district officers must execute official bonds in the following amounts:

1. County commissioners each in the sum of \$5000.
2. County treasurers each in double the probable amount of money that may at any time come into his hands as such treasurer, to be fixed by the board of county commissioners: provided, if surety bond be given as provided in section [41-2707](#), the bond need not exceed twenty-five per cent (25%) of the

probable amount that may be at hand at any one time, but in no case to be less than \$10,000.

3. Sheriffs each in the sum of \$10,000.

4. Clerks of the district court each in the penal sum of \$5000, with two (2) sufficient sureties, to be approved by the judge of the district conditioned that he will faithfully perform the duties of his office and at all times account for and pay over all moneys in his hands as clerk; and the penalty of such bond may at any time be increased by the judge of the district. The clerk may require a bond from any deputy.

5. County recorders each in the sum of not less than \$5000 nor more than \$20,000, to be fixed by the board of county commissioners, and to cover his duties and liabilities as recorder, auditor and clerk of the board of county commissioners.

6. Assessors each in the sum of \$5000.

7. Tax collectors and license collectors each in the sum of not less than \$2000 nor more than \$50,000 to be fixed by the board of county commissioners.

8. Prosecuting attorneys each in the sum of \$2000.

9. Coroners each in the sum of \$1000.

10. Public administrators each in the sum of \$2000.

11. Constables in the sum of not less than \$500 nor more than \$1000, to be fixed by the board of county commissioners.

[(31-2015) R.S., sec. 1828; am. and reen. R.C. & C.L., sec. 1987; am. 1919, ch. 125, sec. 1, p. 410; C.S., sec. 3557; I.C.A., sec. 30-1515; am. 1961, ch. 104, sec. 1, p. 153; am. 1963, ch. 88, sec. 3, p. 283; am. 1970, ch. 120, sec. 8, p. 284.]

31-2016. BOND OF OFFICERS -- AMOUNT NOT FIXED. When the amount of the bond to be given by any county, district or precinct officer is not fixed by law the amount must be fixed by the board of commissioners.

[(31-2016) R.S., sec. 1829; reen. R.C. & C.L., sec. 1988; C.S., sec. 3558; I.C.A., sec. 30-1516.]

31-2017. LIMITATION ON APPROVAL OF CLAIMS IN EXCESS OF LEVIES. All county, town, municipal, road and school district officials who issue orders or warrants or approve bills or order county warrants to be drawn in excess of the levies made for the different county, town, municipal, road or school district funds shall be liable, both personally and on their official bonds for the payment of any such excess.

[(31-2017) 1915, ch. 116, p. 262; reen. C.L., sec. 1988a; C.S., sec. 3559; I.C.A., sec. 30-1517.]

31-2018. COUNTY OFFICIALS -- LIMITATION ON PERSONAL LIABILITY. County officials shall strictly account for all public moneys and property under their care and control while holding public office but shall not be personally liable for loss of any such public moneys or property when the cause of such loss is fire, flood, earthquake, or other natural or man-made disaster or when caused by theft, robbery, or the criminal conduct of another person who is not a county official or employee. Each county shall indemnify its officials and employees against all losses of public moneys or property, except those which are the result of negligence, gross negligence, or inten-

tional conduct by the public official or employee, pursuant to the authority in the Idaho tort claims act.

[31-2018, added 1988, ch. 4, sec. 1, p. 5.]