

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 50
OPTIONAL FORMS OF COUNTY GOVERNMENT GENERAL PROVISIONS

31-5001. CONSTITUTIONAL BASIS -- EXCLUSIVE OPTIONAL FORMS OF COUNTY GOVERNMENT. (1) The purpose of this act is to establish optional forms of county government in compliance with section 12, article XVIII of the Idaho constitution. In addition to the original three (3) member board of county commissioners form of county government authorized by the constitution and laws of the state of Idaho before the enactment of section 12, article XVIII of the Idaho constitution, the following shall be the exclusive optional forms of county government:

- (a) The commission-executive, as authorized in [chapter 52, title 31](#), Idaho Code;
- (b) The commission-manager, as authorized in [chapter 53, title 31](#), Idaho Code;
- (c) The three-member board of county commissioners with changes in other county offices, as authorized in [chapter 54, title 31](#), Idaho Code;
- (d) The five-member board of county commissioners, as authorized in [chapter 55, title 31](#), Idaho Code;
- (e) The seven-member board of county commissioners, as authorized in [chapter 56, title 31](#), Idaho Code;
- (f) Consolidation of offices among counties, with all other characteristics of the government of each participating county to remain unchanged, as authorized in [chapter 57, title 31](#), Idaho Code.

(2) The adoption of an optional form of county government shall not relieve a county from the performance of the duties and responsibilities imposed upon the county, the board of county commissioners or any elected officer of the county by the constitution and laws of the state of Idaho.

[31-5001, added 1996, ch. 283, sec. 1, p. 917.]

31-5002. SHORT TITLE -- APPLICATION. (1) This act shall be known and may be cited as the "Optional Forms of County Government Act."

(2) The provisions of chapters 50 and 51, [title 31](#), Idaho Code, shall apply to chapters 52 through 57, [title 31](#), Idaho Code.

[31-5002, added 1996, ch. 283, sec. 1, p. 918.]

31-5003. DEFINITIONS. As used in chapters 50 through 57, [title 31](#), Idaho Code:

(1) "Governing body" shall mean the board of county commissioners of the county or other legislative body governing the county under an optional form of county government approved by the electors of the county.

(2) "Officer" shall mean a member of the board of county commissioners, the clerk of the district court, ex officio auditor and recorder, the county treasurer, ex officio tax collector and public administrator, the county assessor, the county sheriff, the county coroner, the county prosecutor, or the holder of any other office of the county approved by the electors upon the adoption of an optional form of government.

(3) "Optional form of county government" shall mean any optional form of county government authorized by chapters 50 through 57, [title 31](#), Idaho Code, or any subsequent act of the legislature.

(4) "Study commission" shall mean the body which may be appointed to review the government of the county and recommend which, if any, optional form of county government should be proposed to the electors.

[31-5003, added 1996, ch. 283, sec. 1, p. 918.]

31-5004. PETITION OR RESOLUTION TO ADOPT AN OPTIONAL FORM OF COUNTY GOVERNMENT -- CONTENTS -- QUESTION TO BE SUBMITTED AT GENERAL ELECTION. (1) The governing body of each county shall have the authority to submit to the electors of the county the question of the adoption of an optional form of county government as follows:

(a) The governing body may pass a resolution providing for the submission of the question;

(b) The governing body shall submit the question upon a petition signed by petitioners equal in number to fifteen percent (15%) of the qualified electors voting in the county in the last general election.

(2) A separate petition or resolution shall be required for each optional form of county government proposed.

(3) The petition or resolution to establish an optional form of county government shall contain:

(a) A complete description of the proposed optional form of government as required under the provisions of the chapter pertaining to the form of government proposed to be adopted and under any other provisions of this act;

(b) A description of the effect of adopting the option upon any incumbents;

(c) A statement that if an optional form is adopted the question to return to the previous form or any other optional form of county government may be placed at subsequent elections but not more frequently than every four (4) years.

(4) The question of adopting an optional form of county government shall be submitted at the general election.

(5) The provisions of section [34-1801C](#), Idaho Code, shall govern the requirements for signatures, verification of valid petitions, printing and review of petitions, and time limits, unless expressly modified by other provisions of this act. The petition must be certified as provided in section [34-1801C](#), Idaho Code, prior to September 1 of the year of the general election at which the question of adopting the optional form of government proposed by the petition is to appear on the ballot.

[31-5004, added 1996, ch. 283, sec. 1, p. 918; am. 2018, ch. 238, sec. 5, p. 561.]

31-5005. ELECTION TO ADOPT OPTIONAL FORM OF COUNTY GOVERNMENT -- BALLOT QUESTION -- MORE THAN ONE OPTION ON THE BALLOT. (1) The question of adopting an optional form of county government shall be submitted to the electors in substantially the following form:

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the (name optional form) form of county government.

(2) If more than one (1) optional form of county government is to be presented to the electors the questions shall be submitted in substantially the following form:

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the (name optional form) form of county government.

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the (name optional form) of county government.

If a majority of the electors favor more than one (1) option appearing on the ballot, the option receiving the greatest number of votes shall be adopted.

[31-5005, added 1996, ch. 283, sec. 1, p. 919.]

31-5006. GENERAL TRANSITION PROVISIONS. (1) The governing body shall prepare a plan for the orderly transition to an optional form of county government approved by the electors of the county. The development of the plan shall initiate within thirty (30) days after the optional form is approved by the electors and shall be completed within six (6) months.

(2) The governing body may enact and enforce ordinances to bring about an orderly transition to the new form of government, including the transfer of powers, records, documents, properties, assets, funds, liabilities or personnel. These ordinances shall be consistent with the optional form approved and shall be necessary or convenient to place it into full effect. Whenever a question arises concerning transition for which there is no provision, the governing body may provide for the transition by ordinance, rule or resolution not inconsistent with law.

[31-5006, added 1996, ch. 283, sec. 1, p. 920.]

31-5007. CHANGE IN STATUS OF ELECTED OFFICERS. Except as otherwise provided in this chapter or chapters 51 through 57, [title 31](#), Idaho Code:

(1) An elected county officer whose office has become appointive or has been consolidated with another elective or appointive office under an optional form of government shall continue to perform the duties of office until his successor is appointed or elected and qualified. Thereafter the position held by the elected officer shall be deemed abolished.

(2) If the optional form of government consolidating an elective office with another office or making an elective office appointive is approved at an election at which the office was also filled by election, the office shall be declared abolished, the term of office not having commenced prior to the approval of the optional form.

(3) A petition or resolution proposing an optional form of county government may provide that an existing elected officer will continue in office until the end of the term for which he was elected or may provide that an existing elected officer will be retained as a county employee until the end of the term for which he was elected; provided that the person's salary shall not be reduced except as part of a general salary reduction.

(4) Nothing in this section precludes a former elected official from being appointed or elected to a position in county government.

[31-5007, added 1996, ch. 283, sec. 1, p. 920.]

31-5008. TREATMENT OF EXISTING ORDINANCES AND RESOLUTIONS. All ordinances and resolutions in effect at the time the optional form of government becomes effective shall continue in effect until repealed or amended in the manner provided by law.

[31-5008, added 1996, ch. 283, sec. 1, p. 920.]

31-5009. EFFECT OF ADOPTION OF AN OPTIONAL FORM OF COUNTY GOVERNMENT. Adoption of an optional form of county government shall not affect the validity of any bond, debt, contract, obligation or cause of action accrued or established under the prior form of government.

[31-5009, added 1996, ch. 283, sec. 1, p. 920.]

31-5010. LIMITATION ON ELECTION TO CHANGE THE FORM OF COUNTY GOVERNMENT. In the event an optional form is adopted, the question whether to return to the original form or adopt any other optional form may be placed at subsequent elections, but not more frequently than each four (4) years.

[31-5010, added 1996, ch. 283, sec. 1, p. 921.]