

TITLE 39
HEALTH AND SAFETY

CHAPTER 28
ABATEMENT DISTRICTS

39-2801. DEFINITIONS. When used in this chapter:

(1) "Vector" means an animal, such as an insect, that transmits a disease producing organism from one host to another.

(2) "Vermin" means small animals, including insects, of public health and welfare concern which are difficult to control when they appear in large numbers.

[39-2801, added 2007, ch. 188, sec. 2, p. 548.]

39-2801A. AUTHORIZATION TO FORM ABATEMENT DISTRICTS. There may be formed, under the provisions of this chapter, districts for the abatement of mosquitoes or other vermin of public health and welfare importance, in any area of the state from territory of one (1) or more counties, one (1) or more cities or towns, or any combination or portion thereof. No district shall contain noncontiguous areas except where a noncontiguous area of land consisting of not less than forty (40) contiguous acres, is separated from the district by public property owned by the federal, state or local government, such noncontiguous land may be included in the district by election or agreement of the private property owners. Any abatement district formed under this chapter, including an interim district formed under the provisions of section 39-2812, Idaho Code, shall be governed by the provisions of section 39-2804, Idaho Code.

[(39-2801A) 39-2801, added 1959, ch. 81, sec. 1, p. 186; am. & redesign. 2007, ch. 188, sec. 3, p. 548.]

39-2802. PROCEDURES FOR FORMATION OF ABATEMENT DISTRICTS. (1) Abatement districts may be formed in the following ways:

(a) Upon presentation to the board of county commissioners of a petition requesting the formation of an abatement district, which is signed by property owners of the territory of the proposed abatement district, equal to not less than ten percent (10%) of the property owners within the proposed district, the commissioners shall publish such petition when the following conditions are met: the petition must define the boundaries of the proposed district and assessed tax valuation of the property therein. When the above conditions have been met the county commissioners shall publish the petition, and if after thirty (30) days no protests are received, an election must be held on a regularly scheduled election date specified in section 34-106, Idaho Code. The abatement district shall bear the expense of holding their portion of the election upon their successful formation from the first tax moneys collected. If there are written protests, the county commissioners must hold a public hearing within thirty (30) days after receipt of the written protests and after the hearing hold an election. Notice of the time and place of such election shall be published at least once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district.

(b) The board of county commissioners may place the question on a ballot during either a primary or general election as to whether to create an abatement district. If the board of county commissioners determines to place such a question on the ballot, it shall be after they define the boundaries of the proposed district and assessed tax valuation of the property therein. Notice of the time and place of such election shall be published at least once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election in at least one (1) newspaper having general circulation in the proposed abatement district.

(2) 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. A majority of the votes cast by the qualified electors shall establish the district.

[39-2802, added 1959, ch. 81, sec. 2, p. 186; am. 1995, ch. 118, sec. 56, p. 472; am. 2007, ch. 188, sec. 4, p. 549.]

39-2803. SELECTION OF OFFICIALS OF ABATEMENT DISTRICTS. A five (5) member board of trustees shall be appointed from within the area of the proposed abatement district to govern the abatement district. The trustees appointed shall at the first meeting of each year elect a president, secretary and treasurer to serve during the ensuing year. The officers of the board shall be bonded to the extent of five hundred dollars (\$500) to five thousand dollars (\$5,000) each as set by the county commissioners. The members of the board shall be appointed by the county commissioners of the county which they are to represent. When two (2) or more counties or portions thereof comprise an abatement district, the selection of trustees will be made by mutual agreement of the county commissioners concerned. Each trustee shall be a resident property owner and a registered voter. Trustees shall be appointed for four (4) years on staggered appointments. To initiate the board two (2) members are appointed for two (2) years, one (1) for three (3) years and two (2) for four (4) years. Subsequent appointments shall be for four (4) years. Trustees shall serve without compensation but will be reimbursed for necessary expenses involved with the performance of their official duties. The county health officer and the county agent shall be ex officio members of the board. Whenever two (2) or more counties or portions thereof are included in the district, the health officer and county agent for each county shall be ex officio members of the board. The directors or heads of the following state departments or their designated representatives shall be considered ex officio members of the board and may be called upon for their advice and assistance in the handling of abatement problems affecting their direct interests: agriculture, fish and game, lands, transportation, water resources and health and welfare.

[39-2803, added 1959, ch. 81, sec. 3, p. 186; am. 1974, ch. 18, sec. 226, p. 364; am. 1974, ch. 23, sec. 141, p. 633.]

39-2804. POWERS AND DUTIES OF ABATEMENT DISTRICTS. The abatement district board of trustees is authorized:

(1) To appoint a director to direct the activities of the district, in accordance with training and experience necessary to fulfill the duties of the position.

(2) To appoint such other persons as necessary, determine their duties and compensation, and make rules and regulations respecting them.

(3) To take all necessary and proper steps for the control of mosquitoes and other vermin of public health and welfare importance in the district and for these purposes shall have the right to enter upon any and all lands.

(4) To sue and be sued.

(5) To contract to purchase, hold, dispose of, and acquire by gift real and personal property in the name of the district. To exercise the right of eminent domain and for these purposes to condemn any necessary land or rights-of-way in accordance with general law.

(6) To abate as nuisance breeding places of mosquitoes or other vermin of public health and welfare importance within the district or within migrating distance of the district by use of chemicals or permanent control measures and in this connection have the right to enter upon any and all lands.

(7) To work with the lateral ditch water users associations, irrigation, drainage and flood control districts and other cooperating organizations. The board of trustees of the abatement district may supplement funds of cooperating organizations for improvement, repair, maintenance and cleaning of ditches which will temporarily or permanently eliminate mosquito breeding or for other activities which will benefit the district.

(8) To file annually with the board of county commissioners for their approval an estimate of funds required for the next year, a plan of the work to be done, and methods to be employed. No procedure, work or contract for any year of operation shall be done or entered upon until plans and budget have been jointly approved by the board of county commissioners.

(9) To file, annually or by February 1 of the succeeding year, with the board of county commissioners a report setting forth the moneys expended during the previous year, methods employed, and work accomplishments.

(10) To approve a written mosquito or other vermin management plan submitted by a landowner requesting that their property be excluded from treatment by the abatement district. Such plan must be specific to the landowner's property, provide adequate control measures, and be implemented by the landowner. The abatement district shall refrain from treatment of property included in the approved plan, but shall maintain monitoring and surveillance activities. If the landowner fails to follow the plan or does not provide adequate control measures, the abatement district may abate the mosquitoes or other vermin.

(11) To cooperate with other entities. At its discretion, a district may cooperate with and enter into annual agreements or contract with governmental agencies of this state, other states, agencies of the federal government, private associations, and private individuals in order to carry out the purposes and provisions of this chapter.

[39-2804, added 1959, ch. 81, sec. 4, p. 186; am. 1974, ch. 23, sec. 142, p. 633; am. 1993, ch. 199, sec. 1, p. 548; am. 2007, ch. 188, sec. 5, p. 549.]

39-2805. METHOD OF FINANCING ABATEMENT DISTRICTS. The board of county commissioners must levy upon taxable property within the district a tax at a rate not greater than sufficient to raise the amount determined by the board of trustees as approved by the board of county commissioners, as necessary for the operation of the district for the ensuing year. In no event shall

such tax exceed one tenth percent (.1%) of the market value for assessment purposes on all taxable property within the district. All taxes thus levied shall be collected in the same manner as other taxes and deposited to the credit of the abatement district and shall be used for no other purposes. Such funds may be withdrawn from the county treasury and upon warrant of the board of trustees of the abatement district, signed by the president of the board and countersigned by its secretary, for the activities of the abatement district.

[39-2805, added 1959, ch. 81, sec. 5, p. 186; am. 1974, ch. 23, sec. 143, p. 633; am. 1993, ch. 199, sec. 2, p. 549; am. 1995, ch. 82, sec. 17, p. 228.]

39-2806. ANNEXATION TO ABATEMENT DISTRICTS. Contiguous territories may be annexed to organized abatement districts upon petition of a majority of the legal voters in the territory seeking annexation and of the owners of more than half, by assessed value, of the taxable property in such territory, or by written request for annexation of a designated area, submitted to the trustees of the existing abatement district and signed by all members of the board of county commissioners in which county the territory seeking annexation is located. For annexations that will increase the size of an existing contiguous district, there shall be no size restriction on the property being annexed. Noncontiguous areas shall not be annexed unless the area meets the provisions of section 39-2801A, Idaho Code. Upon receiving this petition or written request, the trustees of the existing abatement district must submit the question of annexation to the legal voters of the district at an election held subject to the provisions of section 34-106, Idaho Code.

[39-2806, added 1959, ch. 81, sec. 6, p. 186; am. 1993, ch. 81, sec. 1, p. 211; am. 1995, ch. 118, sec. 57, p. 473; am. 2007, ch. 188, sec. 6, p. 551.]

39-2807. CONSOLIDATION OF ABATEMENT DISTRICTS. Two (2) or more contiguous districts may be consolidated. Any district board of trustees may seek consolidation by adoption of a resolution by a majority vote of its members. Consolidation is accomplished by a majority vote of the members of each of the boards of trustees involved in the consolidation. The consolidated districts may enter into arrangements for pooling funds and joint use of personnel, equipment, and supplies. The activities conducted under joint arrangement shall be considered as if conducted directly by the board having jurisdiction over the area concerned. The board of county commissioners must be given written notice of consolidation.

[39-2807, added 1959, ch. 81, sec. 7, p. 186; am. 1993, ch. 199, sec. 3, p. 549.]

39-2808. EXISTING RIGHTS PRESERVED. It is the purpose of this act to provide additional and cumulative remedies to prevent, abate and control the spread of mosquitoes and/or other vermin affecting the public health, safety and welfare of the people of the state of Idaho. Nothing herein contained shall be construed to abridge or alter rights of action or remedies in equity or under the common law or statutory law, criminal or civil, nor shall any provision of this act, or an act done by virtue thereof, be construed as estopping the state or any municipality or person in the exercise of their

rights of equity or under the common law or statutory law to suppress or abate nuisances.

[39-2808, added 1959, ch. 81, sec. 9, p. 186.]

39-2809. SHORT TITLE. This chapter may be cited as the "Idaho Mosquito and Vermin Abatement Act."

[39-2809, added 1959, ch. 81, sec. 10, p. 186; am. 2007, ch. 188, sec. 7, p. 551.]

39-2810. WITHDRAWAL. Any portion of an abatement district which will not be reasonably benefited by remaining within such district may be withdrawn as in this section provided. Upon receiving a petition signed by fifty (50) or more landowners within the portion desired to be withdrawn from any abatement district, or by a majority of such landowners, if there are less than one hundred (100) landowners within the portion sought to be withdrawn, requesting the withdrawal of such portion from the district on the ground that such portion will not be reasonably benefited by remaining in said district, the board of county commissioners shall fix a time for hearing on such petition and for hearing protests to the continuance of the remaining territory as an abatement district. The hearing shall not be less than ten (10) days nor more than thirty (30) days after the receipt thereof. The board shall, at least one (1) week prior to the time so fixed, publish notice of such hearing by one (1) publication in a newspaper of general circulation in the district, which the board deems most likely to give notice to the inhabitants thereof, of the proposed withdrawal.

[39-2810, as added by 1965, ch. 177, sec. 1, p. 363; am. 2007, ch. 188, sec. 8, p. 551.]

39-2811. HEARING OF PETITION FOR WITHDRAWAL. Any person interested may appear at the hearing and object to the withdrawal of the portion from the district, or may object to the continuance of the remaining territory as an abatement district. The board of county commissioners shall consider all objections and shall pass upon the same, and if it finds that portion of the district sought to be withdrawn will not be reasonably benefited by remaining within the district, and the territory not sought to be withdrawn will be reasonably benefited by continuing as an abatement district, it shall grant the petition and enter an order thereon upon its records. In the event the board finds the district will not be reasonably benefited by continuing as an abatement district, it shall enter an order upon its records completely dissolving and terminating the previously existing abatement district. Upon the withdrawal of any territory from an abatement district, as in this section provided, all property acquired for the district shall remain vested in the county and be used for the purposes of the district. Upon complete dissolution of an abatement district as herein provided, all property acquired for the district shall remain vested in the county and be used for any general purpose of the county.

[39-2811, as added by 1965, ch. 177, sec. 1, p. 363; am. 2007, ch. 188, sec. 9, p. 551.]

39-2812. PESTS -- PUBLIC HEALTH AND WELFARE -- DISASTERS -- EMERGENCIES -- INTERIM ABATEMENT DISTRICTS. (1) To provide for the timely response to an elevated or anticipated pest population that may constitute a risk to public health and welfare, the board of county commissioners of each county of this

state, in collaboration with duly recognized local and state officials, and after a public hearing is called for such purpose as a special meeting pursuant to the provisions of section 74-204(2), Idaho Code, is hereby granted full power and authority to declare such pests as public health and welfare pests, and to initiate activities to hinder in the potential spread of disease, or adverse economic impact, caused by these pests by taking appropriate steps to intervene in the natural biological cycle of the pests or disease.

(2) Boards of county commissioners are further authorized and empowered, in the event of a disaster or emergency declared by such boards, to make direct appropriations for the purpose of controlling public health and welfare pests as declared pursuant to this section. All moneys raised by direct appropriation shall be placed in a county public health and welfare pest fund, which shall be used exclusively for the control of pests of public health and welfare significance and for payment of all necessary expenses incurred in such control program. In addition, the county may impose an annual property tax assessment pursuant to section 39-2805, Idaho Code, and in accordance with the provisions of sections 63-802 and 63-803, Idaho Code, for the term of the disaster or emergency or until all expenses incurred during the disaster or emergency have been recovered. Such fund shall be a revolving fund and all moneys returned to the fund under any of the provisions of this chapter shall continue to be available for the operation of the control program.

(3) The disaster or emergency declaration of a pest of public health and welfare significance within a county and subsequent pest management activity shall, except as provided herein, place the whole county into an interim abatement district for administrative purposes for no more than two (2) years. The transition of an interim abatement district into a formally defined abatement district, shall be brought to a vote of the electorate within twenty-four (24) months of the declaration, subject to the notification and establishment requirements provided in this chapter and conducted during a general election held on the first Tuesday following the first Monday in November of even numbered years, and if passed, the district shall be recognized and the provisions of this chapter shall be implemented. If the measure fails, the balance of revolving fund moneys shall be distributed as required by state law. In the event the disaster or emergency exceeds the county's capacity or resources, provisions should be made to request state or federal disaster or emergency funds to address the evolving situation. If the interim abatement district provides the same service as an existing abatement district, the interim abatement district shall exclude any area within an existing abatement district.

[39-2812, added 2007, ch. 188, sec. 10, p. 552; am. 2015, ch. 141, sec. 89, p. 444.]

39-2813. OPERATION OF ABATEMENT DISTRICTS BY COUNTY. Any district board of trustees may seek operation of the district by the board of county commissioners by adoption of a resolution by a majority vote of its members and by a majority vote of the board of county commissioners. The board of county commissioners may provide by ordinance that the abatement district board of trustees shall function as an advisory board to the board of county commissioners. If such an ordinance is adopted, the board of county commissioners shall retain and may exercise the powers, duties and responsibilities otherwise charged to the abatement district board of trustees

by the provisions of this chapter. Any such ordinance shall set forth the powers, duties, responsibilities, compensation, and terms of office of the abatement advisory board and may provide for any such other rules under which the abatement advisory board shall advise the board of county commissioners and conduct its operations. Any such ordinance may be repealed at any time and, if repealed, the provisions of this chapter shall apply as if no such ordinance had been adopted.

[39-2813, added 2007, ch. 188, sec. 11, p. 553.]

39-2814. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

[39-2814, added 2007, ch. 188, sec. 12, p. 553.]

CHAPTER 29
ENERGY EFFICIENT STATE BUILDINGS