

TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 14
SINGLE COUNTY-WIDE HIGHWAY DISTRICTS

40-1401. ELECTION TO ESTABLISH DISTRICT. Any county may, at the discretion of the commissioners, or shall, upon a request in writing from ten percent (10%) or more of the qualified electors residing in each of the county commissioner subdistricts, hold an election at which the following question shall be submitted to the electorate: "Shall this county be served by one county-wide highway district for all city highways and county secondary highways?". The election for this question shall be held at the next general election following a decision by the board of county commissioners for such an election or upon receipt of the qualified voters written requests to hold such election. At least one (1) public hearing shall be held by the board of county commissioners, prior to the election.

[40-1401, added 1985, ch. 253, sec. 2, p. 658; am. 1988, ch. 221, sec. 1, p. 419.]

40-1403. REJECTION OF PLAN -- INTERVALS FOR NEW ELECTIONS. In any county where the question fails of adoption, another election may be called and held by the submission of petitions, but any subsequent election shall be held not oftener than two (2) years after the holding of any election submitting the question to the vote of the electorate.

[40-1403, added 1985, ch. 253, sec. 2, p. 658.]

40-1404. APPOINTMENT OF FIRST HIGHWAY DISTRICT COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS -- SUBDISTRICTS -- ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS. For counties with a population of two hundred thousand (200,000) persons or less, if there is a majority affirmative vote at the election the county commissioners, at their next meeting shall organize the countywide highway district. The county shall be subdivided by the county commissioners into three (3) subdistricts, designated subdistricts number one, two and three, as nearly equal in population as practicable, and one (1) highway commissioner shall represent each subdistrict and be a resident of the subdistrict. The governor shall appoint the first countywide highway district commissioners. Where one (1) or more highway districts have been in existence at the time of the creation of the countywide highway district, the governor shall appoint, whenever practicable, at least one (1) of the former highway district commissioners as they shall qualify by reason of residence in the territorial limits of the subdistricts of the countywide highway district as a commissioner of the countywide highway district. County commissioners and city council members shall not be eligible to hold office as a countywide highway district commissioner. The originally appointed commissioners shall serve until the next general election when two (2) members shall be elected for two (2) years and one (1) member shall be elected for a term of four (4) years, the commissioner from subdistrict number one being elected for a term of four (4) years. The four (4) year term shall be allotted thereafter in rotation to subdistricts number two, three and one. A qualified voter of the countywide highway district shall be eligible to vote for each of the countywide highway district commissioners,

and the election shall be conducted as provided by Idaho statutes relating to holding elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election, and each may be compensated in accordance with the provisions of section [40-1314](#), Idaho Code, or receive a salary not to exceed six hundred dollars (\$600) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed seven hundred dollars (\$700) per calendar month.

[40-1404, added 1985, ch. 253, sec. 2, p. 659; am. 1988, ch. 221, sec. 2, p. 420; am. 1993, ch. 109, sec. 1, p. 278; am. 1998, ch. 300, sec. 1, p. 989; am. 2003, ch. 68, sec. 6, p. 233.]

40-1404A. ELECTIONS, TERMS AND SALARIES OF COMMISSIONERS IN CERTAIN COUNTYWIDE HIGHWAY DISTRICTS. In countywide highway districts located in a county with a population of more than two hundred thousand (200,000) persons in which the voters have chosen to establish a countywide highway district at a previous election, the county shall be divided by the county commissioners immediately upon the effective date of this act into five (5) subdistricts which shall be as nearly equal in population as practicable. No precincts shall be divided. A highway district commissioner shall be a resident of the subdistrict which he represents. Voters in each subdistrict shall vote only for one (1) candidate seeking to represent that subdistrict. County commissioners, mayors and city council members shall not be eligible to hold office as a countywide highway district commissioner. At the election held in 1998, commissioners representing subdistricts two and five shall be elected for two (2) year terms and commissioners representing subdistricts three and four shall be elected for four (4) year terms. Thereafter, all commissioners shall be elected for four (4) year terms. Any incumbent in office on the effective date of this act may complete the term to which they were elected and shall represent the subdistrict in which they reside. Any incumbent in office on the effective date of this act whose term expires on January 1, 2000, shall retain that office until January 1, 2000, shall be assigned the subdistrict in which they reside by the county commissioners, which subdistrict shall be numbered one as provided in this section and that commissioner need not stand for election in 1998.

A qualified voter of the countywide highway district shall be eligible to vote for a countywide highway district commissioner residing in the elector's subdistrict, and the election shall be conducted as provided by Idaho statutes relating to holding general elections at the county level.

The highway commissioners shall take office on January 1 of the year immediately following their election, and each may be compensated in accordance with the provisions of section [40-1314](#), Idaho Code, or receive a salary not to exceed one thousand two hundred dollars (\$1,200) per calendar month with the exception of the president of the highway commissioners who may receive a salary not to exceed one thousand four hundred dollars (\$1,400) per calendar month.

[40-1404A, added 1998, ch. 300, sec. 2, p. 990; am. 2001, ch. 44, sec. 2, p. 83; am. 2003, ch. 68, sec. 7, p. 234.]

40-1404B. VACANCIES -- FILLING A MID-TERM VACANCY. (1) Any vacancy occurring on the highway district board, other than by expiration of the term

of office, shall be determined by the remaining highway district board using the criteria established in section [59-901](#), Idaho Code.

(2) If it is determined that a vacancy has occurred as provided in subsection (1) of this section, the remaining highway district board shall declare there is a vacancy and such vacancy shall be filled as herein provided:

(a) The remaining highway district board shall have thirty (30) days to appoint a person to fill the vacancy.

(b) If a majority of the remaining highway district board so constituted shall be unable to agree upon an appointment of a person to fill the vacancy before the expiration of the thirty (30) day period, the remaining highway district board shall submit a list of three (3) nominations to the governor within five (5) days.

(c) The governor shall fill the vacancy within ten (10) days by appointing a person having the qualifications set forth herein. In the event the remaining highway district board fails to submit a list of three (3) nominations as set forth in this section, the governor shall have an additional ten (10) days to fill the vacancy by appointing a person having the same qualifications at the time of the appointment as those provided by law for election to the office.

(3) The person selected shall be a person who possesses the same qualifications at the time of his appointment as those provided by law for election to the vacant office.

(4) The term of the appointment shall be for the balance of the term of the person replaced.

(5) Appointment pursuant to the provisions of this chapter shall be in writing and filed with the secretary of the highway district, the clerk of the county commissioners and the tax collector of the county.

(6) Any person appointed to fill a vacancy, after filing the official oath and qualifying for the official bond in accordance with the provisions of section [40-1405](#), Idaho Code, shall possess all the rights and powers, and is subject to all the liabilities, duties and obligations of the office filled.

[40-1404B, added 2013, ch. 18, sec. 1, p. 28.]

40-1405. ORGANIZATION OF DISTRICT -- OFFICERS -- OFFICIAL BONDS. (1) Immediately after appointment, the county-wide highway district commissioners shall meet and organize, elect a chairman from their number, and appoint a secretary and treasurer who may also be from their number, for terms fixed by them. The offices of secretary and treasurer may be filled by the same person. Certified copies of all appointments, under the hand of each of the commissioners, shall be filed with the clerk of the county commissioners and with the tax collector of the county.

(2) The officers of the highway district shall take and file with their secretary an oath for the faithful performance of the duties of their respective offices. Each highway commissioner and director shall execute an official bond in the sum of not less than five thousand dollars (\$5,000). The treasurer on his appointment shall execute and file with the secretary an official bond in an amount of money equal to an amount that may come into his hands as treasurer. If a surety bond is given as provided in section [41-2604](#), Idaho Code, the bond need not exceed one hundred thousand dollars (\$100,000), but in no case shall the amount of the bond be less than an amount set by the highway district commissioners.

[40-1405, added 1985, ch. 253, sec. 2, p. 659.]

40-1406. POWERS AND DUTIES OF HIGHWAY COMMISSIONERS -- ONE HIGHWAY DISTRICT IN COUNTY -- HIGHWAY POWERS OF CITIES IN COUNTY ABOLISHED -- LAWS IN CONFLICT SUPERSEDED. The highway commissioners of a county-wide highway district shall exercise all of the powers and duties provided in chapter 13 of this title, and are empowered to make highway ad valorem tax levies as provided by chapter 8, of this title. Only one (1) county-wide highway district shall be operative within a county where the electorate has voted affirmatively for the formation of a county-wide highway district. The district shall specifically be responsible for all county secondary and city highways and is hereby recognized as a body politic of this state. No city included within a county-wide highway district shall maintain or supervise any city highways, or levy any ad valorem taxes for the construction, repair or maintenance of city highways. No highway district included within a county-wide highway district, shall maintain any secondary highways or levy any ad valorem taxes for the construction, repair or maintenance of highways. Wherever any provisions of the existing laws of the state of Idaho are in conflict with the provisions of this chapter, the provisions of this chapter shall control and supersede all such laws. However, within the limits of any city, the city may expend city funds for the placement, care and removal of trees, shrubs, grass, and other plants, which are located within the rights-of-way of any highway of the county-wide highway district.

The commissioners of a county-wide highway district may pass ordinances, rules, and make all regulations, not repugnant to law, as necessary, for carrying into effect or discharging all powers and duties conferred to a county-wide highway district pursuant to this chapter and chapter 13 of this title. All ordinances created or passed by the commissioners of a county-wide highway district shall require the affirmative vote of two-thirds (2/3) of the members of the full county-wide highway district commission. The style of all ordinances shall be: "BE IT ORDAINED by the board of highway district commissioners of (.....) County, Idaho." All ordinances passed shall, before they take effect and within one (1) month after they are passed, be published in at least one (1) issue of a newspaper published in the county or, if no paper be published in the county, then in some paper having general circulation therein. After such publication and before its effective date, such proposed ordinance shall not thereafter be amended in any particular wherein the amendment shall impose terms, conditions or privileges less favorable to the county-wide highway district than the proposed ordinance as published; but amendment favorable to the county-wide highway district may be made at any time and after publication. All ordinances passed pursuant to this section by the board of county-wide highway district commissioners may be proved by a certificate of the secretary of the county-wide highway district under the seal of the board of the county-wide highway district commissioners and shall be read and received in evidence in all courts and administrative proceedings without further proof. If ordinances duly passed are printed or published in book or pamphlet form by authority of the county-wide highway district commissioners, the printed or published book or pamphlet shall also be read and received in evidence in all courts and administrative proceedings without further proof. The commissioners of the county-wide highway district may enforce such ordinances by all appropriate administrative or judicial proceedings.

[40-1406, added 1985, ch. 253, sec. 2, p. 659; am. 1988, ch. 298, sec. 1, p. 942.]

40-1406A. SUMMARIZATION OF ORDINANCES PERMITTED -- REQUIREMENTS. (1) In lieu of publishing the entire ordinance under section [40-1406](#), Idaho Code, the highway district may publish a summary of the ordinance, which summary shall be approved by the governing body and which shall include:

- (a) The name of the highway district;
- (b) The formal identification or citation number of the ordinance;
- (c) A descriptive title;
- (d) A summary of the principal provisions of the ordinance, including penalties provided and the effective date;
- (e) Any other information necessary to provide an accurate summary; and
- (f) A statement that the full text is available at the highway district office.

(2) Notwithstanding subsection (1) of this section, whenever any publication is made under this section and the proposed or adopted ordinance contains legal descriptions or contains provisions regarding taxation or penalties concerning real property, those sections containing such information shall be published in full and shall not be summarized. In the case of a legal description of real property, the notice shall also include the street address or addresses of the property described, if any. In the case of a description covering one (1) or more street addresses, the street addresses of the corners of the area described shall meet this requirement. Maps may be substituted for a written legal description of property provided such maps contain sufficient detail to clearly define the area with which the ordinance is concerned.

(3) Before submission of a summary to a newspaper for publication under this section, the legal advisor of the highway district shall sign a statement, which shall be filed with the ordinance, that the summary is true and complete and provides adequate notice to the public.

(4) The full text of any ordinance which is summarized by publication under this section shall be promptly provided by the highway district clerk to any citizen on personal request.

[40-1406A, added 2001, ch. 334, sec. 1, p. 1176.]

40-1407. DISSOLUTION OF EXISTING DISTRICTS OR SYSTEMS -- TRANSFER OF FUNDS. In any county where the electorate adopts a county-wide highway district under the provisions of this chapter and at the time of reorganization of the district, city highway systems, highway districts, and/or county highway systems already exist, the commissioners shall dissolve those districts or systems and transfer all funds to the reorganized county-wide highway district.

[40-1407, added 1985, ch. 253, sec. 2, p. 660; am. 1988, ch. 221, sec. 3, p. 420.]

40-1408. EXPENSE OF NOTICES AND DISSOLUTION PROCEEDINGS. The expense of all notices and proceedings in relation to the dissolution of a city highway system, highway district and/or county highway system shall be chargeable to and borne by each respective city highway system, highway district and/or county highway system dissolved.

[40-1408, added 1985, ch. 253, sec. 2, p. 660; am. 1988, ch. 221, sec. 4, p. 421.]

40-1409. EXPENSES OF ELECTION. In all counties where elections are held under the provisions of this chapter, county commissioners shall pay expenses of the elections from the election fund of the county.

[40-1409, added 1985, ch. 253, sec. 2, p. 660; am. 2009, ch. 341, sec. 78, p. 1042.]

40-1410. EXISTING SYSTEMS AND DISTRICTS -- TRANSFER -- LIABILITY. (1) When a county-wide highway district has been adopted, all city highway systems, highway districts and county highway departments shall prepare an inventory and financial statement and file the statement with the commissioners not later than ten (10) days subsequent to the canvass of the election.

(2) Title to all machinery, buildings, lands and property of every kind and nature, belonging to each city highway system, highway district and county highway system shall immediately upon the dissolution of the system or district and without further conveyance, be vested in the commissioners as custodians, and immediately thereafter, as soon as may be practical, delivered to the succeeding county-wide highway district and the district shall be liable for any and all unliquidated obligations of dissolved city highway systems, highway districts or county highway systems.

[40-1410, added 1985, ch. 253, sec. 2, p. 660; am. 1988, ch. 221, sec. 5, p. 421.]

40-1411. APPORTIONMENT OF FUNDS TO PAY DEBTS OF DISSOLVED DISTRICTS. Each year after its dissolution and until all indebtedness, including outstanding warrants of a dissolved system or district shall have been fully paid, it shall be the duty of the succeeding county-wide highway district in which the districts were situated, to apportion for the benefit of any dissolved county or city highway system, or highway district that portion of moneys arising out of the highway users' moneys and the moneys from all other sources as the system or district would be entitled to receive had it not been dissolved. The treasurer of the succeeding county-wide highway district shall place the moneys to the credit of the county-wide district in a special fund in the county treasury with other funds belonging to the district, the funds to be used for payment of the dissolved system's or district's bonded or funded indebtedness.

[40-1411, added 1985, ch. 253, sec. 2, p. 661.]

40-1412. CONTROL OF BRIDGES AND HIGHWAYS IN DISSOLVED SYSTEMS AND DISTRICTS -- SIDEWALKS -- SPECIAL ASSESSMENTS. (1) After the dissolution of any county highway system, city highway system or highway district, the county-wide highway district of the county in which the dissolved system or district was situate, shall have the same control over all bridges and highways of the system or district as is vested in the commissioners, highway district commissioners or city councils as provided for in section [40-801](#), Idaho Code.

(2) A county-wide highway district may provide by general ordinance for the construction, repair, replacement or removal of sidewalks which are deemed by the highway district commissioners to be dangerous and unsafe,

and assess the costs as provided in subsection (3) of this section to the property in front of which the same shall be constructed, repaired or laid.

(3) All special assessments levied to which the provisions of this chapter are made applicable shall be due and payable to the treasurer of the county-wide highway district, and if not paid within thirty (30) days after mailing of notification of assessment, shall be declared delinquent, be certified to the tax collector of the county by the district treasurer, and shall be placed by the tax collector upon the tax roll and collected in the same manner and subject to the same penalties as other taxes. All money received on special assessments shall be held by the treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and the money shall be used for no other purpose than to reimburse the highway district for money expended for the improvement.

(4) The tax collector of the county shall pay on demand to the treasurer all money received by him arising from ad valorem taxes or assessments levied.

[40-1412, added 1985, ch. 253, sec. 2, p. 661.]

40-1413. BALANCE OF FUNDS OF DISSOLVED SYSTEM OR DISTRICT -- DISPOSITION -- NO FUNDS TO CITY. (1) After final payment of all expenses of proceedings and of all legal claims, liabilities, bonded and other indebtedness in relation to dissolution of a dissolved system or district, and after liquidation and winding up of the affairs of the system or district, all surplus moneys of the dissolved district remaining in the special fund of the dissolved city highway system, highway district and/or county highway department shall immediately be delivered to the treasurer of the county-wide highway district.

(2) No city whose incorporated limits lie wholly or partially within the boundaries of a dissolved highway district shall be entitled to receive any share of the moneys of the dissolved highway district.

[40-1413, added 1985, ch. 253, sec. 2, p. 661; am. 1988, ch. 221, sec. 6, p. 421.]

40-1414. CREATION OF LOCAL IMPROVEMENT DISTRICTS. In addition to the powers granted to county-wide highway districts under the provisions of this chapter, the districts are empowered to create local improvement districts for construction, reconstruction and maintenance of highways and accompanying curbs, gutters, culverts, sidewalks, paved medians, bulkheads and retaining walls within the boundaries of the highway districts.

The organization and operation of the local improvement districts shall be as nearly as practicable as prescribed in [chapter 17, title 50](#), Idaho Code.

[40-1414, added 1985, ch. 253, sec. 2, p. 662.]

40-1415. RESPONSIBILITIES OF SINGLE COUNTY-WIDE HIGHWAY DISTRICTS WITHIN CITIES -- FINAL DECISION ON URBAN RENEWAL PROJECTS -- SETTLEMENT OF QUESTIONS. (1) County-wide highway districts organized under the provisions of this chapter, within the limits of any city shall be responsible for the design, construction, reconstruction and maintenance of city rights-of-way and accompanying curbs, gutters, culverts, sidewalks, paved medians,

bulkheads and retaining walls. Within city rights-of-way, design, construction, reconstruction and maintenance shall include:

- (a) Traffic and safety engineering for both motorist and pedestrian traffic;
- (b) Procurement and installation of highway lighting where it is primarily of benefit to the motorist. Energy costs and maintenance of lighting shall subsequently be a function of the city;
- (c) Procurement, installation, operation and maintenance of traffic control devices where they are needed for traffic control; and
- (d) Drainage where it is necessary for motorist safety or necessary for right-of-way maintenance.

(2) Acquisition and acceptance of rights-of-way shall be the responsibility of the county-wide highway district.

(3) In matters of urban renewal projects, the city involved shall make the final decision concerning approval of the project based on the overall plan of the city. Prior to approval of an urban renewal project, the city shall submit the plan to the highway district for review and recommendations in accordance with subsection (1) of this section. The highway district shall submit its written recommendations with respect to the proposed urban renewal plan to the city within thirty (30) days after receipt of the plan for review. Upon receipt of the recommendations of the highway district, or if no recommendations are received within thirty (30) days, then the city may proceed without recommendations with the hearing on the proposed urban renewal project, and the highway district shall be responsible, as between the city and the highway district, for funding the district's responsibilities as provided by subsection (1) of this section. Agreements entered into by a city pursuant to an urban renewal project prior to dissolution of the city highway system and organization of the successor highway district shall be binding upon the county-wide highway district.

(4) The highway district shall be responsible for planning and location of rights-of-way. In planning for and determining location of rights-of-way, the highway district shall submit to the appropriate planning agency the proposed location of the rights-of-way. In locating rights-of-way the highway district shall take into consideration the comprehensive general plan of the appropriate county or city planning agency. In planning for the location of rights-of-way, the highway district shall comply with all appropriate provisions of [chapter 65, title 67](#), Idaho Code.

(5) The city shall retain jurisdiction and responsibility for outstanding local improvement district bonds or warrants sold or issued by the city prior to dissolution of the city highway system and organization of the successor highway district.

(6) All subdivision plats required to be submitted for acceptance and approval to the city and the county under the provisions of [chapter 13, title 50](#), Idaho Code, shall be submitted to the highway district for consideration for acceptance and approval as to continuity of highway pattern, widths, drainage provisions, right-of-way construction standards, traffic flow, the traffic volume demand occasioned by the proposed subdivision either within or without the boundaries of the proposed subdivision, and other matters pertaining to the function of the highway district.

(7) Within the limits of any city, the city may expend city funds for the placement, care and removal of trees, shrubs, grass, and other plants, which are located within the rights of way of any highway of the county-wide highway district.

(8) A city, after advising the board of highway district commissioners of its intent, shall be responsible for the placement, care and removal of any parking meters within the limits of any city, and for the enforcement of ordinances regulating the use of parking meters, which are located within the rights-of-way of any highway of the county-wide highway district. The city shall be entitled to all of the revenues received from parking meters.

[40-1415, added 1985, ch. 253, sec. 2, p. 662.]

40-1416. AUTHORIZATION FOR VOTERS TO APPROVE VEHICLE REGISTRATION FEE. (1) Notwithstanding the provisions of section [49-207](#), Idaho Code, the voters of any county in which a countywide highway district is organized pursuant to [chapter 14, title 40](#), Idaho Code, may authorize the countywide highway district to adopt a resolution by a majority vote of the countywide highway district commissioners to implement and collect a motor vehicle registration fee not to exceed two (2) times the amount established in section [49-402](#), Idaho Code. The authorization to adopt, implement, and collect a vehicle registration fee may be made by the registered voters of the county only at a general election held in even-numbered years, and a simple majority of the votes cast on the question shall be necessary to authorize the fee.

(2) In any election, the resolution submitted to the county voters shall:

- (a) State the exact rate of the fee; and
- (b) State the duration of the fee.

No rate shall be increased and no duration shall be extended without the approval of the voters, by the same simple majority of the votes cast.

An election to approve or disapprove the adoption of a vehicle registration fee may be called for by the adoption of a resolution by a majority vote of the countywide highway district commissioners. Any costs incurred to conduct the election for the district shall be paid by the county.

(3) Any countywide highway district authorized to adopt a resolution for a vehicle registration fee shall contract with the department for the collection, distribution, and administration of the fee in like manner, and under the definitions and rules for the collection and administration of other registration fees as set forth in [chapter 4, title 49](#), Idaho Code. Monthly, following receipt by the department of revenues from the implementation of a vehicle registration fee, the department shall remit the same to the countywide highway district implementing such fee, less a deduction for such amount as may be agreed upon between the department and the commissioners of the countywide highway district, for the department's actual costs for collection and administration of the fee. The vehicle registration fee shall not become part of the state highway account or state highway distribution account.

(4) The countywide highway district must use the funds generated by a vehicle registration fee exclusively for the construction, repair, maintenance, and traffic supervision of the highways within its jurisdiction, and the payment of interest and principal of obligations incurred for said purposes.

(5) Sections [49-405](#), [49-408](#), [49-416](#), [49-404](#), [49-409](#), [49-415](#) and [49-410](#), Idaho Code, shall be subject to the provisions of this section.

[40-1416, added 1986, ch. 260, sec. 1, p. 679; am. 1987, ch. 125, sec. 1, p. 255; am. 1988, ch. 265, sec. 571, p. 869; am. 1991, ch. 285, sec. 2, p. 735; am. 2009, ch. 341, sec. 79, p. 1042.]

40-1418. PROCEEDINGS FOR DISSOLUTION OF EXISTING SINGLE COUNTYWIDE HIGHWAY DISTRICT. All proceedings for the dissolution of single countywide highway districts shall be initiated by a petition of ten percent (10%) or more of the qualified electors residing in each of the county commissioner subdistricts, addressed to the commissioners of the county in which the single countywide highway district is situate, and which shall concisely state the grounds or reasons for the dissolution and contain a request for a hearing of the petition. A hearing on the petition shall be conducted pursuant to sections [40-1803](#) through [40-1805](#), Idaho Code. Following the hearing on the petition, the election and process for dissolution shall be conducted as provided in [title 34](#), Idaho Code. The election shall be held at the next general election and in the event a majority of the qualified electors at the election vote in favor of dissolution, the commission shall immediately make and enter an order declaring the single countywide highway district dissolved.

[40-1418, added 2004, ch. 361, sec. 1, p. 1081; am. 2009, ch. 341, sec. 80, p. 1043.]