

TITLE 40  
HIGHWAYS AND BRIDGES

CHAPTER 16  
DETACHMENT OR ANNEXATION OF TERRITORY

DETACHMENT

40-1601. DISTRICTS SUBJECT TO DETACHMENT. A portion of the territory of an existing highway district, whether the district is situated wholly in one (1) county or in two (2) or more counties, may be detached from the highway district as provided in this chapter.

[40-1601, added 1985, ch. 253, sec. 2, p. 668.]

40-1602. PETITION. Whenever electors of a portion of the territory embraced in any existing highway district desire that their portion be detached from the highway district, a petition describing the territory by its boundaries, signed by not less than twenty-five (25) electors qualified to vote at a highway district election and residing in the territory sought to be detached shall be presented to the commissioners of the county where the greatest portion of the highway district is located.

[40-1602, added 1985, ch. 253, sec. 2, p. 668.]

40-1603. ORDER FOR HEARING UPON PETITION. Immediately upon its next regular meeting or at a special meeting called for that purpose, the commissioners shall by order or resolution fix a time and place for a hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and of the hearing.

[40-1603, added 1985, ch. 253, sec. 2, p. 668.]

40-1604. NOTICE OF HEARING AND PETITION. The commissioners shall require their clerk to have a notice published in accordance with the provisions of section [40-206](#), Idaho Code, setting forth the fact that a petition has been filed with the commissioners. The notice shall state the name of the highway district from which territory is proposed to be detached; a concise general description of the territory so proposed to be detached and its boundaries; the current bonded and current warrant indebtedness of the district; a notice of the time and place when and where the petition will be heard by the commissioners; and notice that any elector qualified to vote at an election of the district may, prior to or at the time of the hearing, file with the clerk of the commissioners written objections to the proposed detachment of the territory.

[40-1604, added 1985, ch. 253, sec. 2, p. 668.]

40-1605. HEARING -- ORDER FOR ELECTION. At the time and place specified in the notice, the commissioners shall proceed to consider the petition and all written objections filed with them and shall hear all persons in relation to it. Upon the conclusion of the hearing, which may be continued from day to day, if the commissioners shall determine that the detachment from the high-

way district of the territory described in the petition is practicable and to the best interests of the territory and of the highway district, they shall enter an order directing that the question of the detachment of the territory be submitted to the qualified electors of the district at an election to be held within the district on a date authorized in section [34-106](#), Idaho Code, which is not less than thirty (30) days from and after the date of the order.

[40-1605, added 1985, ch. 253, sec. 2, p. 669; am. 2009, ch. 341, sec. 86, p. 1044.]

40-1606. ELECTION OFFICERS AND POLLING DISTRICTS -- NOTICE OF ELECTION. The county clerk shall appoint judges for the election; the commissioners shall by order establish polling places; and the county clerk shall provide notice of the election in accordance with the provisions of section [34-1406](#), Idaho Code. The notice shall state the date and purpose of the election, the boundaries of the territory proposed to be detached from the highway district, the places of holding the election, the various polling districts if the election is to be held in more than one (1) place, the qualifications required of voters, and the hours during which the polls shall be open.

[40-1606, added 1985, ch. 253, sec. 2, p. 669; am. 2009, ch. 341, sec. 87, p. 1045.]

40-1607. ELECTION PROCEDURE. The qualifications of voters at the elections, the conduct of elections, the counting of the votes, the return of the ballots, and the payment of expenses of the election shall be as prescribed in [title 34](#), Idaho Code.

[40-1607, added 1985, ch. 253, sec. 2, p. 669; am. 2009, ch. 341, sec. 88, p. 1045.]

40-1608. ORDER DECLARING TERRITORY DETACHED. If upon the canvass of the returns of the election the commissioners shall find that a majority of the votes cast in the district are in favor of the detachment from the highway district of the territory embraced in the proposal for detachment, they shall immediately make and enter an order declaring that territory detached from the district to the extent and for the purposes set forth.

[40-1608, added 1985, ch. 253, sec. 2, p. 669.]

40-1609. EFFECT OF DETACHMENT OF TERRITORY -- APPORTIONMENT OF INDEBTEDNESS. The detachment of territory from the district shall be deemed to relate only to the operations of the district subsequent to the order of detachment. Territory detached and all taxable property in that territory shall be and remain liable for the proportionate share of all bonded, warrant, and other indebtedness incurred by the district prior to the time of detachment. The proportionate share of the indebtedness of the district incurred prior to the order of detachment to be borne by the detached territory is hereby established and shall be determined and computed as follows:

(1) The highway district commissioners shall, at the meeting at which an order of detachment is made, compute the total aggregate market value for assessment purposes of the property within the district for the preceding year, and shall separately compute the total aggregate market value for as-

assessment purposes for the preceding year of all the property within the territory detached from the district.

(2) The highway district commissioners shall compute and determine as of the date of the order of detachment the cash and solvent credits owing to the district and the value of the highway equipment and other personal property owned by it at the time of the detachment of territory, all of which property shall be retained by the district.

(3) The proportion of the outstanding indebtedness of the district incurred prior to the withdrawal of territory for which the withdrawn territory shall be and remain liable is the proportion that the aggregate market value for assessment purposes of the property within the withdrawn territory bears to the market value for assessment purposes of the property within the entire highway district as shown by the assessment rolls of the preceding year, less credit for the proportionate share or interest of the withdrawn territory in the cash, solvent credits, and personal property of the district, that share being based upon the proportion that the market value for assessment purposes of the property within the detached territory for the preceding year bears to the market value for assessment purposes of the total property within the entire district for the year.

[40-1609, added 1985, ch. 253, sec. 2, p. 670.]

40-1610. DETACHED TERRITORY SUBJECT TO COUNTY LEVIES. After the detachment of any territory from a highway district the property within the detached portion shall be subject to taxation by the county for highway and other purposes to the same extent precisely as if it had never been included in the highway district.

[40-1610, added 1985, ch. 253, sec. 2, p. 670.]

40-1611. VALIDITY OF OUTSTANDING BONDS AND WARRANTS NOT AFFECTED. Nothing in this chapter shall be construed as impairing the validity of any bonds or warrants of a highway district outstanding at the time of the detachment of any territory.

[40-1611, added 1985, ch. 253, sec. 2, p. 670.]

#### ANNEXATION

40-1614. TERRITORY DISANNEXED FROM ANOTHER COUNTY OR ADJACENT TO AN EXISTING HIGHWAY DISTRICT AND WITHIN THE COUNTY. Any area not within a highway district, but within a territory previously detached from a county and annexed to another county, and adjacent to a highway district organized before annexation and situate wholly within the county to which the territory has been annexed, and any area not within a highway district, which is adjacent to an existing highway district and situate wholly within the county within which the highway is located, may be added to, and included in, the highway district upon the approval of its highway commissioners and the order of the commissioners of the county in which the highway district is situated.

[40-1614, added 1985, ch. 253, sec. 2, p. 671.]

40-1615. PETITION FOR ANNEXATION. (1) The proceedings for inclusion shall be initiated by petition of twenty per cent (20%) of the qualified

electors in the area proposed to be annexed to and included within the highway district. The petition shall accurately describe the boundaries of the area to be annexed, and shall state the name and identify the highway district to which the annexation is sought, and shall be accompanied by a map showing and distinguishing the boundaries of the highway district and the boundaries of the area proposed to be annexed to the highway district.

(2) Proposals for the annexation of territory consisting entirely of public lands, or of a combination of public lands and privately held lands but which have no qualified electors to initiate a petition, may be initiated by petition of the highway commissioners of the district to which the proposed annexation is to be made.

[40-1615, added 1985, ch. 253, sec. 2, p. 671.]

40-1616. REQUIRED EXHIBITS IN CONNECTION WITH PETITION. The petition, accompanied by a map and also by a certified copy of a resolution of the highway commissioners of the highway district approving and consenting to the inclusion and annexation shall be filed with the clerk of the commissioners.

[40-1616, added 1985, ch. 253, sec. 2, p. 671.]

40-1617. HEARING ON PETITION -- NOTICE. Upon the filing of petitions, the commissioners shall fix a time for hearing the petition and shall cause a notice to be published in accordance with the provisions of section [40-206](#), Idaho Code, and shall describe the area proposed to be annexed to the highway district.

[40-1617, added 1985, ch. 253, sec. 2, p. 671.]

40-1618. OBJECTIONS TO PETITION -- HEARING. Any qualified elector in the area to be annexed, and any qualified elector of the highway district, may file objections to the petition and may be heard at the hearing. Objections must be filed prior to or at the time of the hearing.

[40-1618, added 1985, ch. 253, sec. 2, p. 671.]

40-1619. APPROVAL OR REJECTION OF PETITION. Upon the hearing of the petition the commissioners may approve or reject the petition. The commissioners, upon the approval of the highway commissioners, may modify the area described in the petition.

[40-1619, added 1985, ch. 253, sec. 2, p. 671.]

40-1620. ORDER OF ANNEXATION. If the commissioners shall find that the annexation by the highway district is for the best interests of the highway system in the county, then the commissioners shall order that the area, or any modifications of it made by the commissioners, shall be annexed to the highway district, and an order shall be entered in the minutes of the commissioners, and the area shall then constitute and be a part of the highway district.

[40-1620, added 1985, ch. 253, sec. 2, p. 672.]

40-1621. FILING OF CERTIFIED COPIES OF ORDER. The commissioners shall cause one (1) certified copy of the order to be filed for record in the of-

fice of the county recorder of the county in which the highway district is situate, and shall transmit a certified copy of the order to the highway commissioners of the highway district to which the area is annexed.

[40-1621, added 1985, ch. 253, sec. 2, p. 672.]

40-1622. EFFECT OF ANNEXATION. The area annexed to the highway district shall be placed by the highway commissioners of the district into the sub-district or subdistricts of the district as they shall determine and shall be subject to taxation for the payment of all of the outstanding obligations of the district existing at the time of annexation, and subject to taxation as all other lands of the district for the operation of the highway system of the district.

[40-1622, added 1985, ch. 253, sec. 2, p. 672.]

40-1623. CONTESTING PROCEEDINGS -- TIME LIMIT. After the order of annexation is made by the commissioners, the validity of the proceedings shall not be affected by any defect in the petition or in the number or qualification of its signers, and no action shall be commenced or maintained or defense made affecting the validity of the annexation after six (6) months from and after the making and entering of the order by the commissioners.

[40-1623, added 1985, ch. 253, sec. 2, p. 672.]

40-1624. ANNEXATION OF CONTIGUOUS TERRITORY. Additional territory adjoining a highway district and lying contiguous with and within one (1) or more counties may be added to and be included in the district, by the affirmative vote of a majority of the qualified electors of the additional territory voting on the question at an election held for that purpose, which vote shall be taken at an election on a date authorized in section [34-106](#), Idaho Code. Additional territory shall not be annexed to or included in the district unless annexation and inclusion shall be first approved by the commissioners of the county in which the area proposed to be annexed is located if it shall be deemed to be in the best public interest, and by the highway district commissioners of the existing district by resolution, entered on their minutes prior to the election on the question of annexation.

[40-1624, added 1985, ch. 253, sec. 2, p. 672; am. 2009, ch. 341, sec. 89, p. 1045.]

40-1625. ELECTION DATE WHERE TERRITORY LIES IN MORE THAN ONE COUNTY. Where territory to be annexed lies in more than one (1) county the election shall be held on the same day as it is mutually determined by agreement between the commissioners of both counties concerned on a date authorized in section [34-106](#), Idaho Code.

[40-1625, added 1985, ch. 253, sec. 2, p. 672; am. 2009, ch. 341, sec. 90, p. 1045.]

40-1626. PETITION FOR ELECTION -- ELECTION. The election shall be conducted in accordance with the general election laws of the state. A petition for the election shall be initiated by not less than twenty-five (25) property owners, or all property owners if there are less than twenty-five (25)

in the proposed area to be annexed. The proposed area to be annexed shall be set forth with clarity as to be specifically identified by a map of the area. The petition upon being signed shall be submitted to the commissioners of the highway district and to the commissioners concerned. The petition shall, within thirty (30) days after presentment, be either approved or rejected by the recorded motion of the commissioners in their minutes. Upon the petition being approved by the commissioners of the county in which the territory or a part is situated and the commissioners of the highway district, a certified copy of the petition, together with a certified copy of the resolution of the highway commissioners approving the petition for annexation and with the proposed election precinct boundaries and polling place, shall within ten (10) days be transmitted by the highway commissioners to the county clerk of the county or counties, in which the territory to be annexed lies. The commissioners in the county in which the territory lies shall then within sixty (60) days fix a time for the election on a date authorized in section [34-106](#), Idaho Code. The commissioners and county clerk shall do all things necessary for the holding of an election in conformity with the general election laws of the state. Upon the election being had the result shall be canvassed, declared and the result certified by the commissioners.

[40-1626, added 1985, ch. 253, sec. 2, p. 672; am. 2009, ch. 341, sec. 91, p. 1046.]

40-1627. MAJORITY VOTE REQUIRED APPROVING ANNEXATION -- ACTION OF COMMISSIONERS. If, after canvassing the election, a majority of the qualified electors of the additional territory voting are in favor of the annexation, then the commissioners must order that the additional area shall be annexed to the highway district and an order shall be entered in their minutes, and the area shall then constitute and be a part of the highway district. Where the area to be annexed lies in a county other than the county in which the election was held, duplicate copies of the result of the election, copy of the canvass and order annexing the area to the highway district shall be immediately transmitted by the county clerk of the county in which the election was held to the county clerk of the county in which the highway district lies, and shall be immediately approved by the commissioners and recorded in their minutes.

[40-1627, added 1985, ch. 253, sec. 2, p. 673.]

40-1628. CERTIFICATION BY COMMISSIONERS OF ORDER APPROVING ANNEXATION. The commissioners shall file one (1) certified copy of the order for record in the office of the county recorder of the county in which the highway district is situated, and shall transmit a certified copy of the order to the commissioners of the highway district of which the area is annexed.

[40-1628, added 1985, ch. 253, sec. 2, p. 673.]

40-1629. TAXATION OF ANNEXED AREA FOR OUTSTANDING OBLIGATIONS. Upon annexation, the area next to the highway district shall be and become a part of it and shall be subject to taxation for the payment of all the outstanding obligations of the district existing at the time of annexation, and be subject to taxation as all other lands of the district for the operation of the highway system of the district.

[40-1629, added 1985, ch. 253, sec. 2, p. 673.]

40-1630. PAYMENT OF COSTS OF ELECTION. The costs of the election shall be paid by the county or counties conducting the election.

[40-1630, added 1985, ch. 253, sec. 2, p. 674; am. 2009, ch. 341, sec. 92, p. 1046.]