TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 18
DISSOLUTION OF HIGHWAY DISTRICTS

40-1801. DISTRICTS SUBJECT TO DISSOLUTION. Any highway district of the state, except a single countywide highway district formed pursuant to chapter 14, title 40, Idaho Code, may be dissolved as provided in this chapter. Sections 40-1806 through 40-1821, Idaho Code, shall apply to any election and process for dissolution of a single countywide highway district.

[40-1801, added 1985, ch. 253, sec. 2, p. 678; am. 2004, ch. 361, sec. 2, p. 1082.]

40-1802. PETITION FOR DISSOLUTION -- CONTENTS. All proceedings for the dissolution of highway districts shall be initiated by a petition of twenty-five (25) or more qualified electors of the district, addressed to the commissioners of the county in which the 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.

[40-1802, added 1985, ch. 253, sec. 2, p. 678.]

40-1803. ORDER FOR HEARING UPON PETITION. The petition shall be filed with the clerk of the commissioners and at its next regular meeting, or at any special meeting called for that purpose, and the commissioners shall by an order fix a time and place for the 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 hearing.

[40-1803, added 1985, ch. 253, sec. 2, p. 678.]

40-1804. NOTICE OF PETITION AND HEARING. The commissioners shall require their clerk to cause a notice to be published in accordance with the provisions of section 40-206, Idaho Code, setting forth that a petition has been filed, the prayer of the petition and notice of the time and place when and where the petition will be heard, and further notice that any elector of the district may, prior to or at the time of the hearing, file with the clerk written objections to the proposed dissolution.

[40-1804, added 1985, ch. 253, sec. 2, p. 678.]

40-1805. 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 to it, and shall hear all persons in relation to it, and shall hear or take testimony as may be offered or as they desire. Upon the conclusion of the hearing which may be continued from day to day, if the commissioners determine that the district ought to be dissolved and that the dissolution would be to the best interest of the district, it shall enter an order directing that the question of dissolution of the district be submitted to the qualified electors of the district at an election to be held on the

date authorized in section 34-106, Idaho Code, which is not less than thirty (30) days from and after the order.

[40-1805, added 1985, ch. 253, sec. 2, p. 679; am. 2009, ch. 341, sec. 95, p. 1047.]

40-1806. ELECTION OFFICERS -- NOTICE OF ELECTION. The county clerk shall appoint judges for the election, to be chosen from the electors of the district and the county commissioners shall by order establish polling places. The county clerk shall publish notice of the election in accordance with the provisions of section 34-1406, Idaho Code. The notice shall state the purpose of the election and the polling places.

[40-1806, added 1985, ch. 253, sec. 2, p. 679; am. 2009, ch. 341, sec. 96, p. 1047.]

40-1807. QUALIFICATIONS OF VOTERS. Any person residing in the district possessing the qualifications required by law for a voter at any general election of the state shall be entitled to vote in the election.

[40-1807, added 1985, ch. 253, sec. 2, p. 679.]

40-1808. CONDUCT OF ELECTIONS. (1) The polls in all elections shall be presided over by the judges and clerks appointed by the county clerk.

(2) All elections shall be conducted in accordance with the provisions of title 34, Idaho Code.

[40-1808, added 1985, ch. 253, sec. 2, p. 679; am. 2009, ch. 341, sec. 97, p. 1048.]

40-1809. COUNTING VOTES -- CANVASS -- ORDER OF DISSOLUTION. Immediately following the close of the polls at the time specified in the notices of election the votes shall be counted in accordance with the provisions of title 34, Idaho Code. The board of county commissioners shall canvass the returns as provided in chapter 12, title 34, Idaho Code, and in the event a majority of the votes cast in the district are in favor of dissolution, the county commissioners shall immediately make and enter an order declaring the district dissolved.

[40-1809, added 1985, ch. 253, sec. 2, p. 680; am. 2009, ch. 341, sec. 98, p. 1048.]

40-1810. EXPENSES OF DISSOLUTION -- HOW BORNE AND PAID. All expenses of proceedings to dissolve highway districts, including the posting and publication of notices of hearings on the petitions and of the election, the printing of ballots and compensation of judges and clerks of election, shall be borne by the county.

[40-1810, added 1985, ch. 253, sec. 2, p. 680; am. 2009, ch. 341, sec. 99, p. 1048.]

40-1811. DISPOSITION OF SURPLUS FUNDS AND PROPERTY OF DISSOLVED SYSTEM OR DISTRICT. (1) After final payment of all expenses of proceedings in relation to dissolution and of all legal claims, liabilities, bonded and other indebtedness of the dissolved highway district, and after liquidation and

winding up of the affairs of the district, all surplus moneys of the dissolved highway district remaining in the special fund of the dissolved district shall immediately be delivered to the treasurer of the succeeding operational unit. Title to all machinery, buildings, lands, and property of every kind and nature belonging to the dissolved system or district shall immediately upon entry of the order of dissolution, and without further conveyance, be vested in the succeeding operational unit.

(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.

[40-1811, added 1985, ch. 253, sec. 2, p. 680.]

40-1812. PROVISION FOR PAYMENT OF CURRENT CLAIMS. As a part of the proceedings of and order for dissolution of a district, the commissioners shall make a determination, so nearly as may be done, of the total indebtedness of the dissolved district, including bonded, funded bond, and all warrant indebtedness, both as to registered and floating warrants, and current indebtedness of, or claims against, the district. They shall likewise determine the amount of funds on hand belonging to the dissolved district, and shall estimate the revenue to be derived from sale of district property, from uncollected taxes or assessments levied or assessed in the district, and the amount of highway users' funds as the highway district would be entitled to receive from the county in which the district is situated had the district not been dissolved. From that determination, the commissioners shall compute the probable amount of money which may be applied in payment of current indebtedness of the dissolved district and shall order and provide for the manner in which current claims against the district shall be presented to the commissioners for allowance and payment by warrants drawn against the special fund of the district in the county treasury.

[40-1812, added 1985, ch. 253, sec. 2, p. 680.]

40-1813. DISSOLUTION OF DISTRICT SITUATED IN TWO OR MORE COUNTIES. When any highway district is to be dissolved, situate in two (2) or more counties, the commissioners of the county whose county seat is situated most nearly to the geographical center of the district, shall have jurisdiction of the dissolution of the district and the same procedure, including notices and elections, shall be followed as provided in this chapter and chapter 17 of this title, for dissolution of highway districts situated in one (1) county. Meetings shall be had at the county seat of the county having jurisdiction of the dissolution of the highway district before a joint session of the commissioners from all the counties affected by the dissolution. The commissioners of the counties affected shall cause to be made and entered an order for notice, election, and for the dissolution and winding up of the affairs of the highway district and specifying when the same shall be dissolved, and the succeeding operational unit, if any.

[40-1813, added 1985, ch. 253, sec. 2, p. 681.]

40-1814. DISTRICTS IN TWO OR MORE COUNTIES -- PROVISION FOR PAYMENT OF INDEBTEDNESS UPON DISSOLUTION. The commissioners of the county in which the petitions for dissolution are filed, shall determine the indebtedness of the entire district and shall provide for the payment of the indebtedness out

of district funds on hand, or to be raised by special levies, levied by the county, and shall be certified to the clerk of the commissioners of each of the counties in which is situated any part of the dissolved district, and an ad valorem tax shall be levied and imposed by each of the counties upon property of the district as may be within the county. The tax shall be collected, and not less than quarterly, be remitted to the treasurer of the county where the petitions are filed, to be applied in payment of the indebtedness of the dissolved district.

[40-1814, added 1985, ch. 253, sec. 2, p. 681.]

40-1815. JURISDICTION OF PROPERTY OF DISSOLVED DISTRICT SITUATED IN TWO OR MORE COUNTIES. The succeeding operational unit of the county in which the proceedings for the dissolution of highway districts, situated in two (2) or more counties are had, or the commissioners of the county or counties wherein the district was situate shall, after the order of dissolution, have exclusive jurisdiction over all of the property, business and affairs of the dissolved district, whether situate in the county or not, including the power to issue funding bonds against the whole territory of the district for the payment of funding of bonds, warrants, and for other indebtedness of the district when funds for payment cannot be secured by current taxation.

[40-1815, added 1985, ch. 253, sec. 2, p. 681.]

40-1816. CONTROL OF BRIDGES AND HIGHWAYS OF DISSOLVED DISTRICT. From and after the entry of the order for dissolution of any highway district, the commissioners of the county where the district was situate, or the succeeding operational unit, shall have the same control over all bridges and highways of the district situate in the county, as was or is vested in the commissioners in other territory of the county, including the power to levy ad valorem taxes upon the property situate therein for general highway and bridge purposes.

[40-1816, added 1985, ch. 253, sec. 2, p. 682.]

40-1817. LIMITATION ON NEW PROCEEDINGS FOR DISSOLUTION. When any proceedings for dissolution of any highway district shall have failed of adoption, either on account of order of the commissioners or at election, no new proceedings for dissolution of the district shall be initiated less than one (1) year thereafter.

[40-1817, added 1985, ch. 253, sec. 2, p. 682.]

40-1818. VALIDITY OF OUTSTANDING OBLIGATIONS. Nothing in this chapter shall be construed as impairing the validity of any outstanding bonds or warrants of a dissolved system or district.

[40-1818, added 1985, ch. 253, sec. 2, p. 682.]

40-1819. ACTS AND PROCEEDINGS ESTABLISHED OR COMMENCED BEFORE CHAPTER TAKES EFFECT NOT AFFECTED. This chapter shall not affect any act done, ratified or confirmed, or any right accrued or established, or any action or proceeding had or commenced in a civil or criminal cause before July 1, 1985, but

those actions or proceedings may be prosecuted and continued by the county, district or city.

[40-1819, added 1985, ch. 253, sec. 2, p. 682.]

40-1820. CONTINUANCE IN SERVICE OF EMPLOYEES OF DISSOLVED SYSTEM OR DISTRICT. All persons in the employ of any dissolved city highway system or highway district may be continued in service so far as their services may be required by the succeeding operational unit.

[40-1820, added 1985, ch. 253, sec. 2, p. 682.]

40-1821. NO DISTRICT DISSOLVED UNTIL SUCCEEDING OPERATIONAL UNIT IN EXISTENCE. No highway districts dissolved under the terms and provisions of this chapter shall be deemed to have been dissolved and shall not cease to operate and perform their duties and obligations until there shall have been organized and existing a succeeding operational unit.

[40-1821, added 1985, ch. 253, sec. 2, p. 682.]