

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 405

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO FIRE PROTECTION DISTRICTS; AMENDING SECTION 31-1408, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING THE RESIDENCE REQUIREMENTS OF FIRE
3 PROTECTION COMMISSIONERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
4 SECTION 31-1409, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RESI-
5 DENCE REQUIREMENTS OF FIRE PROTECTION COMMISSIONERS AND TO CLARIFY VER-
6 BIAGE; AMENDING SECTION 31-1410, IDAHO CODE, TO ESTABLISH PROVISIONS
7 REGARDING RESIDENCE REQUIREMENTS FOR FIRE PROTECTION COMMISSIONERS,
8 TO REVISE VERBIAGE REGARDING TERMS IN OFFICE, TO REMOVE CERTAIN SUB-
9 DISTRICT PROVISIONS, TO PROVIDE REQUIREMENTS REGARDING THE BOARD OF
10 FIRE PROTECTION COMMISSIONERS' RESPONSIBILITY TO REVISE SUBDISTRICTS,
11 TO PROVIDE FOR NOTICE OF REVISED SUBDISTRICTS AND TO MAKE TECHNICAL
12 CORRECTIONS; AND AMENDING CHAPTER 14, TITLE 31, IDAHO CODE, BY THE AD-
13 DITION OF A NEW SECTION 31-1410B, IDAHO CODE, TO ESTABLISH A PROCESS TO
14 DECREASE THE SIZE OF A FIRE PROTECTION BOARD AND TO PROVIDE FOR TERMS OF
15 OFFICE.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 31-1408, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 31-1408. FIRE PROTECTION BOARD -- APPOINTMENT OF COMMISSIONERS --
21 OATH. (1) There shall be three (3) fire protection commissioners in each
22 district, who shall constitute the fire protection board. The first fire
23 protection commissioners of such fire protection district shall be ap-
24 pointed by the governor. The certificate of such appointment shall be
25 made in triplicate~~r~~: one (1) certificate shall be filed in the office of
26 the county recorder of the county~~r~~, one (1) with the clerk of the board of
27 county commissioners, and one (1) with the assessor and tax collector of the
28 county. Every fire protection commissioner and appointed officer shall take
29 and subscribe the official oath, which oath shall be filed in the office of
30 the board of fire protection commissioners. If thirty-three percent (33%)
31 of the ~~property and/~~ area or population in the fire protection district is
32 situated in two (2) or more counties, not more than two (2) of the appointed
33 fire protection district commissioners shall be from the same county, ~~unless~~
34 ~~pursuant to section 31-1410A, Idaho Code, the board is comprised of five (5)~~
35 ~~members, in which event not more than three (3) of the commissioners shall be~~
36 ~~from the same county.~~

37 (2) The oath of office of fire protection commissioners and appointed
38 officers shall be taken before the secretary or the president of the board of
39 the fire protection district at the first regularly scheduled board meeting
40 in January succeeding each election. Provided however, in the event of an
41 inability to appear for the taking of the oath, a duly elected fire protec-
42 tion commissioner may be sworn in and may subscribe to the oath wherever he

1 may be, provided he appear before an officer duly authorized to administer
2 oaths, and provided further, that any person who is in any branch of the
3 armed forces of the United States of America, may appear before any person
4 qualified to administer oaths as prescribed in section 55-705, Idaho Code,
5 and may take and subscribe the oath of office as provided for in section
6 59-401, Idaho Code, and the oath of office shall have the same force and ef-
7 fect as though it were taken before the secretary or the president of the fire
8 protection district pursuant to this subsection.

9 SECTION 2. That Section 31-1409, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS -- TERM OF OF-
12 FICE -- VACANCIES. (1) At the meeting of the board of county commissioners
13 at which the fire protection district is declared organized, as provided
14 by section 31-1407, Idaho Code, the county commissioners shall divide the
15 fire protection district into three (3) subdivisions, as nearly equal in
16 population, area and mileage as practicable, to be known as fire protec-
17 tion commissioners subdistricts one, two and three. Not more than one (1)
18 of ~~said the fire protection district~~ commissioners shall be an ~~elector~~
19 resident of the same fire protection subdistrict, except that any commis-
20 sioner appointed by the governor under section 31-1408, Idaho Code, shall
21 not be disqualified from the completion of the initial term for which the
22 commissioner was appointed because of the subdistrict in which the commis-
23 sioner resides. The first commissioners appointed by the governor shall
24 serve until the next fire protection district election, at which time their
25 successors shall be elected. The term of office for fire protection com-
26 missioners shall commence on the second Monday of January succeeding each
27 general election. Commissioners appointed and elected must be electors
28 ~~resident~~ residing within the fire protection district for at least one (1)
29 year immediately preceding their election.

30 (2) Any fire protection commissioner vacancy occurring, other than by
31 the expiration of the term of office, shall be filled by the fire protec-
32 tion board. If a duly elected or appointed fire protection commissioner re-
33 signs, withdraws, becomes disqualified, refuses or becomes otherwise unable
34 to perform the duties of office for longer than ninety (90) days, the board,
35 on satisfactory proof of the vacancy, shall declare the office vacant. The
36 board shall fill any vacancies within sixty (60) days of learning of the va-
37 cancy. When a vacancy occurs, the board shall direct the secretary to cause
38 a notice of the vacancy to be published in at least one (1) issue of a newspa-
39 per of general circulation within the district. The notice shall include the
40 date and time of the meeting when the board will vote to fill the vacancy, and
41 the deadline for qualified elector residents interested in being appointed
42 to the position to submit a written request for appointment to the board.
43 Should the board fail to agree on an individual to fill the vacancy, it shall
44 select the individual by a coin toss to be conducted at a fire protection
45 board meeting. Candidates for the vacancy shall be invited by the board to
46 attend the meeting and observe the coin toss. The candidate who wins the coin
47 toss shall be appointed to fill the vacancy.

1 SECTION 3. That Section 31-1410, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 31-1410. ELECTION OF COMMISSIONERS -- RESIDENT QUALIFICATIONS OF
4 COMMISSIONERS -- REVISING SUBDISTRICTS -- TERM OF OFFICE. (1) On the first
5 Tuesday following the first Monday of November, of the next odd-numbered
6 year, following the organization of a fire protection district, three (3)
7 fire protection district commissioners shall be elected. Not more than
8 one (1) commissioner shall be a resident of the same fire protection com-
9 missioner subdistrict. Every odd-numbered year thereafter, an election
10 shall be held for the election of fire protection district commissioners as
11 described in this section. For commissioners whose term in offices expires
12 in 2012 and in any even-numbered year, such commissioners shall remain in
13 office until the next election in an odd-numbered year. The county clerk
14 shall have power to make such regulations for the conduct of such election as
15 are consistent with the statutory provisions of chapter 14, title 34, Idaho
16 Code. ~~At their meeting next preceding such election, the board of fire dis-~~
17 ~~trict commissioners shall divide the district into three (3) subdistricts as~~
18 ~~nearly equal in population, area and mileage as practicable, to be known as~~
19 ~~fire protection commissioners subdistricts one, two and three. Thereafter,~~

20 (2) The board of fire protection district commissioners may revise
21 subdistricts when it they deems it necessary due to significant shifts in
22 population. The board of fire protection district commissioners shall
23 revise subdistricts upon any annexation of territory into the district in
24 accordance with sections 31-1410A, 31-1410B and 31-1412(6), Idaho Code,
25 and, in any case, within six (6) months following the end of each decennial
26 United States census reporting year so as to equalize the population, area
27 and mileage between the subdistricts as nearly as practicable. Provided
28 however, of the commissioners comprising the board, not more than one (1)
29 commissioner shall be an elector resident of the same fire protection com-
30 missioners subdistrict. The revision of subdistricts shall not disqualify
31 any elected commissioner from the completion of the term for which he or she
32 has been duly elected. Notice of revised fire protection commissioner sub-
33 districts shall be provided to the county clerk of the county or counties in
34 which the changes occur by means of a resolution that includes a map depict-
35 ing the revised subdistrict boundaries.

36 (3) At the first election following organization of a fire protection
37 district, the commissioner from fire protection subdistrict one shall be
38 elected to a term of two (2) years, and the commissioners from subdistricts
39 two and three shall be elected to a term of four (4) years; thereafter, the
40 term of office of all commissioners shall be four (4) years. Such elections
41 and all other elections held under this law, shall be held in conformity with
42 the general laws of the state including chapter 14, title 34, Idaho Code.

43 (24) A fire protection district whose terms and elections were estab-
44 lished by prior law shall convert to the election of commissioners as pro-
45 vided in subsection (1) of this section.

46 (35) In any election for fire protection district commissioner, if af-
47 ter the deadline for filing a declaration of intent as a write-in candidate,
48 it appears that only one (1) qualified candidate has been nominated for a
49 subdistrict to be filled, it shall not be necessary for the candidate of that

1 subdistrict to stand for election, and the board of the fire protection dis-
2 trict shall declare such candidate elected as commissioner, and the secre-
3 tary of the district shall immediately make and deliver to such person a cer-
4 tificate of election.

5 (6) The results of any election for fire protection district commis-
6 sioner shall be certified by the county clerk of the county or counties of the
7 district and the results reported to the fire protection district.

8 SECTION 4. That Chapter 14, Title 31, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 31-1410B, Idaho Code, and to read as follows:

11 31-1410B. DECISION TO DECREASE THE SIZE OF THE BOARD. (1) Any fire pro-
12 tection board consisting of five (5) members may, by a four-fifths (4/5) ma-
13 jority vote of all of the board members, elect to decrease the size of the
14 board to three (3) members.

15 (2) If the board of fire protection commissioners elects to reduce the
16 board to three (3) members, the existing board members shall subdivide the
17 district into three (3) subdivisions as nearly equal in population, area and
18 mileage as practicable to be known as subdistricts one, two and three. No-
19 tice of revised fire protection commissioner subdistricts shall be provided
20 to the county clerk of the county or counties in which the changes occur by
21 means of a resolution that includes a map depicting the revised subdistrict
22 boundaries.

23 (3) At the first election following the decision of the board of fire
24 protection commissioners to reduce the board from five (5) to three (3) mem-
25 bers, three (3) commissioners shall be elected. The commissioner from fire
26 protection subdistrict one shall be elected to a term of two (2) years and the
27 commissioners from subdistricts two and three shall be elected to a term of
28 four (4) years. Thereafter, the term of all commissioners shall be four (4)
29 years.

30 (4) For commissioners whose office expires in any even-numbered year,
31 such commissioners shall remain in office until the next election in an odd-
32 numbered year.