

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 568

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO INITIATIVES AND REFERENDA; AMENDING SECTION 34-106, IDAHO
2 CODE, TO REVISE PROVISIONS REGARDING INITIATIVE OR REFERENDUM ELEC-
3 TIONS; AMENDING SECTION 34-1801B, IDAHO CODE, TO PROVIDE THAT CERTAIN
4 INITIATIVE AND REFERENDUM PROCEDURES SHALL NOT APPLY TO ANY LOCAL ZON-
5 ING LEGISLATION AND TO MAKE TECHNICAL CORRECTIONS; REPEALING SECTION
6 31-717, IDAHO CODE, RELATING TO COUNTY INITIATIVE AND REFERENDUM, SIG-
7 NATURES REQUIRED, PRINTING OF PETITION, REVIEW OF MEASURES AND TIME
8 LIMITS; AMENDING CHAPTER 18, TITLE 34, IDAHO CODE, BY THE ADDITION OF A
9 NEW SECTION 34-1801C, IDAHO CODE, TO PROVIDE THAT COUNTIES SHALL FOLLOW
10 CERTAIN PROCEDURES FOR AN INITIATIVE AND REFERENDUM; AND AMENDING SEC-
11 TION 31-5004, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.
12

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

14 SECTION 1. That Section 34-106, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011,
17 notwithstanding any other provisions of the law to the contrary, there shall
18 be no more than two (2) elections conducted in any county in any calendar
19 year, except as provided in this section, and except that elections to fill
20 vacancies in the United States house of representatives shall be held as
21 provided in the governor's proclamation.

22 (1) The dates on which elections may be conducted are:

23 (a) The third Tuesday in May of each year; and

24 (b) The Tuesday following the first Monday in November of each year.

25 (c) In addition to the elections specified in paragraphs (a) and (b) of
26 this subsection and subsection (7) of this section, an emergency elec-
27 tion may be called upon motion of the governing board of a political sub-
28 division. An emergency exists when there is a great public calamity,
29 such as an extraordinary fire, flood, storm, epidemic, or other disas-
30 ter, or if it is necessary to do emergency work to prepare for a national
31 or local defense, or it is necessary to do emergency work to safeguard
32 life, health or property.

33 (d) In addition to the elections specified elsewhere in this section,
34 a presidential primary shall be held on the second Tuesday in March in
35 each presidential election year. Presidential primaries shall be held
36 separately from other primary elections, which shall be held on the
37 third Tuesday in May even in presidential election years.

38 (2) Candidates for office elected in May shall take office on the date
39 specified in the certificate of election but not more than sixty (60) days
40 following the election.

1 (3) Candidates for office elected in November shall take office as
 2 provided in the constitution, or on January 1, next succeeding the November
 3 election.

4 (4) The governing board of each political subdivision subject to the
 5 provisions of this section, which, prior to January 1, 2011, conducted an
 6 election for members of that governing board on a date other than a date per-
 7 mitted in subsection (1) of this section, shall establish as the election
 8 date for that political subdivision the date authorized in subsection (1) of
 9 this section which falls nearest the date on which elections were previously
 10 conducted, unless another date is established by law.

11 (5) The secretary of state is authorized to provide such assistance as
 12 necessary, and to prescribe any needed rules or interpretations for the con-
 13 duct of election authorized under the provisions of this section.

14 (6) Water districts governed by chapter 6, title 42, Idaho Code, are ex-
 15 empt from the provisions of this section.

16 (7) Community colleges governed by chapter 21, title 33, Idaho Code,
 17 and school districts are subject to the limitations specified in subsection
 18 (1) of this section, except that school districts may also hold an election
 19 on the second Tuesday in March of each year and on the last Tuesday in August
 20 of each year on bonded indebtedness and property tax levy questions.

21 (8) A city initiative, or referendum, election shall be held on the
 22 Tuesday following the first Monday in November of odd-numbered years. A
 23 county initiative or referendum election or a bond, levy and any other ballot
 24 question elections conducted by any political subdivision shall be held on
 25 the nearest date authorized in subsection (1) of this section which falls
 26 more than sixty (60) days after the clerk of the political subdivision orders
 27 that such election shall be held in May and or November of even-numbered
 28 years and or more than fifty (50) days after the order for all other elec-
 29 tions, unless otherwise provided by law. City initiative and referendum
 30 elections shall be held in November of odd-numbered years as provided by
 31 section 34-1801B, Idaho Code. Ballot language for any question to be placed
 32 on the ballot shall be submitted to the county clerk at least sixty (60) days
 33 before the an election held in May and or November of even-numbered years and
 34 at least fifty (50) days for before all other elections.

35 (9) Recall elections may be held on any of the four (4) dates authorized
 36 in subsections (1) and (7) of this section that fall more than forty-five
 37 (45) days after the clerk of the political subdivision orders that such elec-
 38 tion shall be held.

39 (10) Irrigation districts governed by title 43, Idaho Code, are subject
 40 to the limitations specified in subsection (1) of this section, except that
 41 irrigation districts may also hold an election on the first Tuesday in Febru-
 42 ary of each year and on the first Tuesday in August of each year on questions
 43 required to be voted upon by title 43, Idaho Code.

44 SECTION 2. That Section 34-1801B, Idaho Code, be, and the same is hereby
 45 amended to read as follows:

46 34-1801B. INITIATIVE AND REFERENDUM PROCEDURES FOR CITIES. Each city
 47 shall allow direct legislation by the people through the initiative and ref-
 48 erendum. Cities shall follow the procedures set forth in this chapter sub-
 49 ject to the following provisions:

1 (1) The city attorney shall perform the duties assigned to the attorney
2 general.

3 (2) The city clerk shall perform those duties assigned to the secretary
4 of state.

5 (3) City initiative and referendum elections shall be held on the Tues-
6 day following the first Monday in November in odd-numbered years.

7 (4) An action brought pursuant to section 34-1809, Idaho Code, chal-
8 lenging the ballot title or short title shall be brought in the district
9 court in the county in which the city is located.

10 (5) Pursuant to section 34-1809, Idaho Code, the city attorney shall
11 prepare recommendations concerning revision of the initiative or referen-
12 dum, issue a certificate of review to the city clerk, and shall prepare the
13 ballot title and short title.

14 (6) To be eligible to sign a petition for city initiative or referen-
15 dum, a person shall be a qualified elector of the city at the time of signing
16 thereon.

17 (7) To perfect a petition for city initiative or referendum the peti-
18 tion shall have signatures from at least twenty percent (20%) of the total
19 number of qualified electors voting in the last general city election in
20 November of an odd-numbered year.

21 (8) The provisions of section 34-1805, Idaho Code, relating to the num-
22 ber of required signatures and geographic distribution of signatures shall
23 not apply to city initiative or referendum.

24 (9) Any person who circulates a petition for city initiative or refer-
25 endum shall be a resident of the state of Idaho and at least eighteen (18)
26 years of age, and pursuant to section 34-1807, Idaho Code, shall certify
27 their belief that each signer of the petition is a qualified elector of the
28 state of Idaho and the city.

29 (10) A copy of all petitions and signature sheets shall be kept by the
30 city clerk as a public record.

31 (11) The prospective petition for referendum, as provided by section
32 34-1804, Idaho Code, shall be filed not more than sixty (60) days following
33 publication of the adopted ordinance as provided by section 50-901, Idaho
34 Code.

35 (12) The deadline for submission of signatures to the city clerk is one
36 hundred eighty (180) days after the petitioners for initiative or referendum
37 receive the official ballot title from the city clerk, or April 30 of the year
38 of the initiative or referendum election, whichever is earlier.

39 (13) Petitioners must submit the signed initiative or referendum peti-
40 tions to the county clerk for verification not later than the close of busi-
41 ness on the first day of May in the year of the initiative or referendum elec-
42 tion, or one hundred eighty (180) days after the petitioners receive the of-
43 ficial ballot title from the city clerk, whichever is earlier.

44 (14) The county clerk has sixty (60) calendar days to verify the signa-
45 tures as provided in subsection (3) of section 34-1802, Idaho Code.

46 (15) The city council shall have the option to adopt the ordinance pro-
47 posed by initiative within thirty (30) days after the notification pursuant
48 to section 34-1807, Idaho Code, provided that the petition has the required
49 number of signatures. The city council shall hold a public hearing on the
50 proposed ordinance within the thirty (30) day period, preceded by legal no-

1 tice published once in the official city newspaper at least seven (7) days
 2 preceding the hearing. If the ordinance is not adopted by the council by the
 3 end of the thirty (30) day period, the initiative shall be put on the ballot.

4 (16) As provided by sections 34-1812A through 34-1812C, Idaho Code, a
 5 voters' pamphlet shall be prepared by the city clerk.

6 (17) To be passed into law, an initiative or referendum shall be ap-
 7 proved by a majority of the votes cast on the measure.

8 (18) The mayor shall issue the proclamation provided by section
 9 34-1813, Idaho Code.

10 (19) The city clerk shall publish an ordinance adopted by initiative or
 11 referendum within thirty (30) days after the proclamation by the mayor pro-
 12 vided in subsection (18) of this section.

13 (20) All city ordinances setting forth procedures for initiative or
 14 referendum are void on July 1, 2015.

15 (21) This section does not apply to bond elections.

16 (22) This section does not apply to any local zoning legislation includ-
 17 ing, but not limited to, ordinances required or authorized pursuant to chap-
 18 ter 65, title 67, Idaho Code.

19 SECTION 3. That Section [31-717](#), Idaho Code, be, and the same is hereby
 20 repealed.

21 SECTION 4. That Chapter 18, Title 34, Idaho Code, be, and the same is
 22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 23 ignated as Section 34-1801C, Idaho Code, and to read as follows:

24 34-1801C. INITIATIVE AND REFERENDUM PROCEDURES FOR COUNTIES. Each
 25 county shall allow direct legislation by the people through the initiative
 26 and referendum. Counties shall follow the procedures set forth in this chap-
 27 ter subject to the following provisions:

28 (1) The county prosecuting attorney shall perform the duties assigned
 29 to the attorney general.

30 (2) The county clerk shall perform those duties assigned to the secre-
 31 tary of state.

32 (3) County initiative and referendum elections shall be held pursuant
 33 to section 34-106(8), Idaho Code.

34 (4) Pursuant to section 34-1809, Idaho Code, the county prosecuting at-
 35 torney shall prepare recommendations concerning revision of the initiative
 36 or referendum, issue a certificate of review to the county clerk and prepare
 37 the ballot title and short title.

38 (5) An action brought pursuant to section 34-1809, Idaho Code, chal-
 39 lenging the ballot title or short title shall be brought in the district
 40 court of the county.

41 (6) To be eligible to sign a petition for county initiative or referen-
 42 dum, a person shall be a qualified elector of the county at the time of sign-
 43 ing the petition.

44 (7) To perfect a petition for county initiative or referendum, the pe-
 45 tition shall have signatures from at least twenty percent (20%) of the total
 46 number of qualified electors voting in the last general county election in
 47 November of an even-numbered year.

1 (8) The provisions of section 34-1805, Idaho Code, relating to the num-
2 ber of required signatures and geographic distribution of signatures shall
3 not apply to a county initiative or referendum.

4 (9) Any person who circulates a petition for county initiative or ref-
5 erendum shall be a resident of the state of Idaho and at least eighteen (18)
6 years of age, and pursuant to section 34-1807, Idaho Code, shall certify his
7 belief that each signer of the petition is a qualified elector of the state of
8 Idaho and the county.

9 (10) A copy of all petitions and signature sheets shall be kept by the
10 county clerk as a public record.

11 (11) The prospective petition for referendum, as provided by section
12 34-1804, Idaho Code, shall be filed no more than sixty (60) days following
13 publication of the adopted ordinance as provided by section 31-715, Idaho
14 Code.

15 (12) Petitioners must submit the signed initiative or referendum peti-
16 tions to the county clerk for verification no later than one hundred eighty
17 (180) days after the petitioners receive the official ballot title from the
18 county clerk, or one hundred eighty (180) days before the election at which
19 the initiative or referendum is to be voted on, whichever is earlier.

20 (13) The county clerk has sixty (60) calendar days to verify the signa-
21 tures as provided in section 34-1802(3), Idaho Code.

22 (14) The board of county commissioners shall have the option to adopt
23 the ordinance proposed by initiative within thirty (30) days after the noti-
24 fication pursuant to section 34-1807, Idaho Code, provided that the petition
25 has the required number of signatures. The board of county commissioners
26 shall hold a public hearing on the proposed ordinance within the thirty (30)
27 day period, preceded by legal notice published once in the county at least
28 seven (7) days preceding the hearing. If the ordinance is not adopted by the
29 board of county commissioners by the end of the thirty (30) day period, the
30 initiative shall be put on the ballot.

31 (15) As provided by sections 34-1812A through 34-1812C, Idaho Code, a
32 voters' pamphlet shall be prepared by the county clerk.

33 (16) To be passed into law, an initiative or referendum shall be ap-
34 proved by a majority of the votes cast on the measure.

35 (17) The board of county commissioners shall issue the proclamation
36 provided by section 34-1813, Idaho Code.

37 (18) The county clerk shall publish an ordinance adopted by initiative
38 or referendum within thirty (30) days after the proclamation by the board of
39 county commissioners provided in subsection (17) of this section.

40 (19) All county ordinances setting forth initiative or referendum pro-
41 cedures are void on July 1, 2018.

42 (20) This section does not apply to bond elections.

43 (21) This section does not apply to zoning legislation including, but
44 not limited to, ordinances required or authorized pursuant to chapter 65,
45 title 67, Idaho Code.

46 SECTION 5. That Section 31-5004, Idaho Code, be, and the same is hereby
47 amended to read as follows:

48 31-5004. PETITION OR RESOLUTION TO ADOPT AN OPTIONAL FORM OF COUNTY
49 GOVERNMENT -- CONTENTS -- QUESTION TO BE SUBMITTED AT GENERAL ELECTION. (1)

1 The governing body of each county shall have the authority to submit to the
2 electors of the county the question of the adoption of an optional form of
3 county government as follows:

4 (a) The governing body may pass a resolution providing for the submis-
5 sion of the question;

6 (b) The governing body shall submit the question upon a petition signed
7 by petitioners equal in number to fifteen percent (15%) of the qualified
8 electors voting in the county in the last general election.

9 (2) A separate petition or resolution shall be required for each op-
10 tional form of county government proposed.

11 (3) The petition or resolution to establish an optional form of county
12 government shall contain:

13 (a) A complete description of the proposed optional form of government
14 as required under the provisions of the chapter pertaining to the form
15 of government proposed to be adopted and under any other provisions of
16 this act;

17 (b) A description of the effect of adopting the option upon any incum-
18 bents;

19 (c) A statement that if an optional form is adopted the question to re-
20 turn to the previous form or any other optional form of county govern-
21 ment may be placed at subsequent elections but not more frequently than
22 every four (4) years.

23 (4) The question of adopting an optional form of county government
24 shall be submitted at the general election.

25 (5) The provisions of section ~~31-717~~ 34-1801C, Idaho Code, shall govern
26 the requirements for signatures, verification of valid petitions, printing
27 and review of petitions, and time limits, unless expressly modified by other
28 provisions of this act. The petition must be certified as provided in sec-
29 tion ~~31-717~~ 34-1801C, Idaho Code, prior to September 1 of the year of the gen-
30 eral election at which the question of adopting the optional form of govern-
31 ment proposed by the petition is to appear on the ballot.