

IN THE SENATE

SENATE BILL NO. 1079

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO CITY ELECTIONS; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION 34-101, IDAHO CODE, TO PROVIDE THAT CITY ELECTIONS SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-106, IDAHO CODE, TO PROVIDE THAT A CITY INITIATIVE, REFERENDUM, BOND, OR LEVY ELECTION SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1801B, IDAHO CODE, TO PROVIDE THAT CITY INITIATIVE AND REFERENDUM ELECTIONS SHALL BE HELD IN EVEN-NUMBERED YEARS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-402, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 50-405, IDAHO CODE, TO PROVIDE THAT A CITY GENERAL ELECTION SHALL BE HELD IN EVEN-NUMBERED YEARS; AND DECLARING AN EMERGENCY.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to shift elections for city officials to even-numbered years. Any elected city official whose term of office expires in 2023 or in any other odd-numbered year shall remain in office until the first election is held in an even-numbered year after the official's term of office would have otherwise expired.

SECTION 2. That Section 34-101, Idaho Code, be, and the same is hereby amended to read as follows:

34-101. "GENERAL ELECTION" DEFINED -- OFFICES TO BE FILLED -- CONSTITUTIONAL AMENDMENTS. (1) "General election" means the national, state, city, and county election held on the first Tuesday succeeding the first Monday of November in each even-numbered year.

(2) At these elections, there shall be chosen all congressional, state, city, and county officers, including electors of president and ~~vice-president~~ vice president of the United States, as are by law to be elected in such years.

(3) All amendments to the Idaho constitution shall be submitted to the voters for their approval at these elections.

SECTION 3. That Section 34-106, Idaho Code, be, and the same is hereby amended to read as follows:

34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011, notwithstanding any other provisions of the law to the contrary, there shall be no more than two (2) elections conducted in any county in any calendar year, except as provided in this section or section ~~34-219~~ 34-220, Idaho Code, and except that elections to fill vacancies in the United States house of representatives shall be held as provided in the governor's proclamation.

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

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

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

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

11 (d) In addition to the elections specified elsewhere in this section,
12 a presidential primary shall be held on the second Tuesday in March in
13 each presidential election year. Presidential primaries shall be held
14 separately from other primary elections, which shall be held on the
15 third Tuesday in May even in presidential election years.

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

19 (3) Candidates for office elected in November shall take office as pro-
20 vided in the constitution, or on January 1 next succeeding the November elec-
21 tion.

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

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

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

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

39 (8) A city initiative or referendum election or a city bond or levy
40 election shall be held on the Tuesday following the first Monday in November
41 of ~~odd~~ even-numbered years. A county initiative or referendum election or a
42 bond, levy and any other ballot question elections conducted by any politi-
43 cal subdivision shall be held on the nearest date authorized in subsection
44 (1) of this section ~~which~~ that falls more than sixty (60) days after the
45 clerk of the political subdivision orders that such election shall be held
46 in May or November of even-numbered years or more than fifty (50) days after
47 the order for all other elections, unless otherwise provided by law. Ballot
48 language for any question to be placed on the ballot shall be submitted to
49 the county clerk at least sixty (60) days before an election held in May or

1 November of even-numbered years and at least fifty (50) days before all other
2 elections.

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

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

12 SECTION 4. That Section 34-1801B, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 34-1801B. INITIATIVE AND REFERENDUM PROCEDURES FOR CITIES. Each city
15 shall allow direct legislation by the people through the initiative and ref-
16 erendum. Cities shall follow the procedures set forth in this chapter sub-
17 ject to the following provisions:

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

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

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

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

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

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

34 (7) To perfect a petition for city initiative or referendum, the pe-
35 tition shall have signatures from at least twenty percent (20%) of the to-
36 tal number of qualified electors voting in the last general city election in
37 November of an ~~odd~~ even-numbered year.

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

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

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

48 (11) The prospective petition for referendum, as provided by section
49 34-1804, Idaho Code, shall be filed not more than sixty (60) days following

1 publication of the adopted ordinance as provided by section 50-901, Idaho
2 Code.

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

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

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

14 (15) The city council shall have the option to adopt the ordinance pro-
15 posed by initiative within thirty (30) days after the notification pursuant
16 to section 34-1807, Idaho Code, provided that the petition has the required
17 number of signatures. The city council shall hold a public hearing on the
18 proposed ordinance within the thirty (30) day period, preceded by legal no-
19 tice published once in the official city newspaper at least seven (7) days
20 preceding the hearing. If the ordinance is not adopted by the council by the
21 end of the thirty (30) day period, the initiative shall be put on the ballot.

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

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

26 (18) The mayor shall issue the proclamation provided by section
27 34-1813, Idaho Code.

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

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

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

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

37 SECTION 5. That Section 50-402, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 50-402. DEFINITIONS. The following words and phrases, when used in
40 this chapter, have the meanings respectively given herein.

41 (a) General election. "General election" means the election held on
42 the first Tuesday succeeding the first Monday in November in each ~~odd~~ even-
43 numbered year at which there shall be chosen all mayors and councilmen as are
44 by law to be elected in such years.

45 (b) Special election. "Special election" means any election other than
46 a general election held at any time for any purpose provided by law.

47 (c) Qualified elector. A "qualified elector" means any person who is
48 at least eighteen (18) years of age, is a United States citizen and who has
49 resided in the city at least thirty (30) days next preceding the election at

1 which he desires to vote and who is registered within the time period pro-
 2 vided by law. A "qualified elector" shall also mean any person who is at
 3 least eighteen (18) years of age, is a United States citizen, who is a regis-
 4 tered voter, and who resides in an area that the city has annexed pursuant to
 5 chapter 2, title 50, Idaho Code, within thirty (30) days of a city election.

6 (d) Residence.

7 (1) "Residence," for voting purposes, shall be the principal or pri-
 8 mary home or place of abode of a person. Principal or primary home or
 9 place of abode is that home or place in which his habitation is fixed and
 10 to which a person, whenever he is absent, has the present intention of
 11 returning after a departure or absence therefrom, regardless of the du-
 12 ration of absence. In determining what is a principal or primary place
 13 of abode of a person, the following circumstances relating to such per-
 14 son may be taken into account: business pursuits, employment, income
 15 sources, residence for income or other tax pursuits, residence of par-
 16 ents, spouse, and children, if any, leaseholds, situs of personal and
 17 real property, and motor vehicle registration.

18 (2) A qualified elector shall not be considered to have gained resi-
 19 dence in any city of this state into which he comes for temporary pur-
 20 poses only without the intention of making it his home but with the in-
 21 tention of leaving it when he has accomplished the purpose that brought
 22 him there.

23 (3) A qualified elector who has left his home and gone to another area
 24 outside the city, for a temporary purpose only, shall not be considered
 25 to have lost his residence.

26 (4) If a qualified elector moves outside the city, with the intentions
 27 of making it his permanent home, he shall be considered to have lost his
 28 residence in the city.

29 (e) Election official. "Election official" means the city clerk, reg-
 30 istrar, judge of election, clerk of election, or county clerk engaged in the
 31 performance of election duties.

32 (f) Reference to male. All references to the male elector and male city
 33 officials include the female elector and female city officials, and the mas-
 34 culine pronoun includes the feminine.

35 (g) Computation of time. Calendar days shall be used in all computa-
 36 tions of time made under the provisions of this chapter. In computing time
 37 for any act to be done before any election, the first day shall be included
 38 and the last, or election day, shall be excluded. Saturdays, Sundays and le-
 39 gal holidays shall be included, but, if the time for any act to be done shall
 40 fall on Saturday, Sunday or a legal holiday, such act shall be done upon the
 41 day following each Saturday, Sunday or legal holiday.

42 SECTION 6. That Section 50-405, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 50-405. GENERAL AND SPECIAL CITY ELECTIONS. (1) A general election
 45 shall be held in each city governed by this title, for officials as in this
 46 title provided, on the Tuesday following the first Monday of November in
 47 each ~~odd~~ even-numbered year. All such officials shall be elected and hold
 48 their respective offices for the term specified and until their successors

1 are elected and qualified. All other city elections that may be held under
2 authority of general law shall be known as special city elections.

3 (2) (a) No city election shall be held for an office if, after the dead-
4 line for filing a declaration of intent to be a write-in candidate for
5 the office, it appears:

6 (i) For the office of mayor, only one (1) person has filed a dec-
7 laration of candidacy or a declaration of intent to be a write-in
8 candidate;

9 (ii) For the office of city council member in cities that have es-
10 tablished designated seats, as provided in section 50-707, Idaho
11 Code, only one (1) person has filed a declaration of candidacy or a
12 declaration of intent to be a write-in candidate for a particular
13 seat up for election for a two (2) year term or a four (4) year term;
14 or

15 (iii) For the office of city council member in cities that do not
16 have designated council seats as provided in section 50-707, Idaho
17 Code, the number of people who have filed a declaration of candi-
18 dacy or a declaration of intent to be a write-in candidate is equal
19 to or fewer than the number of council positions up for election
20 for a two (2) year term or a four (4) year term.

21 (b) If the provisions of paragraph (a) of this subsection have been
22 met, the city clerk shall declare such candidate elected. The candidate
23 shall receive a certificate of election and be installed at the first
24 city council meeting in January following the election.

25 (3) On and after January 1, 2011, notwithstanding any other provisions
26 of law to the contrary, there shall be no more than two (2) elections con-
27 ducted in any city in any calendar year, except as provided in this section.

28 (4) The dates on which elections may be conducted are:

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

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

31 (c) In addition to the elections specified in paragraphs (a) and (b) of
32 this subsection, an emergency election may be called upon motion of the
33 city council of a city. An emergency exists when there is a great pub-
34 lic calamity, such as an extraordinary fire, flood, storm, epidemic or
35 other disaster, or if it is necessary to do emergency work to prepare for
36 a national or local defense, or if it is necessary to do emergency work
37 to safeguard life, health or property.

38 (5) Pursuant to section 34-1401, Idaho Code, all city elections shall
39 be conducted by the county clerk of the county wherein the city lies, and
40 elections shall be administered in accordance with the provisions of title
41 34, Idaho Code, except as those provisions are specifically modified by the
42 provisions of this chapter. After an election has been ordered, all expenses
43 associated with conducting city general and special elections shall be paid
44 from the county election fund as provided by section 34-1411, Idaho Code.
45 Expenses associated with conducting runoff elections shall be paid by the
46 city adopting runoff elections pursuant to the provisions of section 50-612
47 or 50-707B, Idaho Code, or both.

48 (6) The secretary of state is authorized to provide such assistance as
49 necessary and to prescribe any needed rules or interpretations for the con-
50 duct of elections authorized under the provisions of this section.

1 SECTION 7. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.