

IN THE SENATE

SENATE BILL NO. 1377

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-106, IDAHO CODE, TO REVISE PRO-  
2 VISIONS REGARDING ELECTION DATES AND TO MAKE A TECHNICAL CORRECTION;  
3 AMENDING SECTION 34-116, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE  
4 COMPUTATION OF TIME; AMENDING SECTION 34-705, IDAHO CODE, TO PROVIDE A  
5 CORRECT CODE REFERENCE; REPEALING SECTION 34-714, IDAHO CODE, RELATING  
6 TO FILLING VACANCIES IN A SLATE OF POLITICAL PARTY CANDIDATES OCCUR-  
7 RING PRIOR TO A PRIMARY ELECTION; AMENDING SECTION 34-715, IDAHO CODE,  
8 TO REVISE PROVISIONS REGARDING FILLING VACANCIES IN A SLATE OF POLIT-  
9 ICAL PARTY CANDIDATES; AMENDING SECTION 34-717, IDAHO CODE, TO REVISE  
10 A PROVISION REGARDING THE WITHDRAWAL OF A CANDIDACY; AMENDING SECTION  
11 34-1707, IDAHO CODE, TO PROVIDE A DEADLINE FOR FILING CERTAIN STATE-  
12 MENTS PRIOR TO A RECALL ELECTION AND TO MAKE TECHNICAL CORRECTIONS; AND  
13 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
14

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

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

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

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

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

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

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

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

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

1 (3) Candidates for office elected in November shall take office as  
 2 provided in the constitution, or on January 1~~7~~ 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 Tues-  
 22 day following the first Monday in November of odd-numbered years. A county  
 23 initiative or referendum election or a bond, levy and any other ballot ques-  
 24 tion elections conducted by any political subdivision shall be held on the  
 25 nearest date authorized in subsection (1) of this section which falls more  
 26 than sixty (60) days after the clerk of the political subdivision orders that  
 27 such election shall be held in May or November of even-numbered years or in  
 28 March of a presidential election year, or more than fifty (50) days after  
 29 the order for all other elections, unless otherwise provided by law. Bal-  
 30 lot language for any question to be placed on the ballot shall be submitted  
 31 to the county clerk at least sixty (60) days before an election held in May or  
 32 November of even-numbered years and at least fifty (50) days before all other  
 33 elections.

34 (9) Recall elections may be held on any of the four (4) dates authorized  
 35 in subsections (1) and (7) of this section that fall more than ~~forty-five~~  
 36 sixty (4560) days after the clerk of the political subdivision orders that  
 37 such election shall be held in May or November of even-numbered years or in  
 38 March of a presidential election year, or more than fifty (50) days after the  
 39 order for all other elections.

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

45 SECTION 2. That Section 34-116, Idaho Code, be, and the same is hereby  
 46 amended to read as follows:

47 34-116. CALENDAR DAYS USED IN COMPUTATION OF TIME. Calendar days shall  
 48 be used in all computations of time made under the provisions of this act.  
 49 In computing time for any act to be done before any election, the first day

1 shall be included and the last, or election day, shall be excluded. Sundays,  
 2 Saturdays and legal holidays shall be included, but if the ~~time for~~ deadline  
 3 by which any act ~~to~~ must be done, including any specified day of the month,  
 4 shall fall on Sunday, Saturday or a legal holiday, such act shall be done upon  
 5 the day following such Sunday, Saturday or legal holiday.

6 SECTION 3. That Section 34-705, Idaho Code, be, and the same is hereby  
 7 amended to read as follows:

8 34-705. WITH WHOM DECLARATIONS FILED. (1) All candidates for county  
 9 offices, whether political party candidates or independent candidates, and  
 10 all political party candidates for precinct offices shall file their decla-  
 11 rations of candidacy with the county clerk of their respective counties. All  
 12 candidates for district, state and federal offices shall file their declara-  
 13 tions of candidacy with the secretary of state.

14 (2) The secretary of state shall certify to the county clerks, within  
 15 ten (10) days after the filing deadline, the names of the political party  
 16 candidates who filed for federal, state and district offices and are qual-  
 17 ified for placement on the ballot.

18 (3) The secretary of state shall certify the name of a candidate being  
 19 appointed by the appropriate central committee pursuant to section 34-714~~5~~,  
 20 Idaho Code, by no later than the next business day after the appointment is  
 21 received in the secretary of state's office, if received after the certifi-  
 22 cation of candidates to the county clerks under subsection (2) of this sec-  
 23 tion.

24 SECTION 4. That Section 34-714, Idaho Code, be, and the same is hereby  
 25 repealed.

26 SECTION 5. That Section 34-715, Idaho Code, be, and the same is hereby  
 27 amended to read as follows:

28 34-715. ~~FILLING OF VACANCIES OCCURRING BEFORE OR AFTER PRIMARY ELEC-~~  
 29 ~~TION IN SLATE OF POLITICAL PARTY CANDIDATES.~~ (1) Vacancies that occur dur-  
 30 ing the ~~ten (10) day period after the eighth Friday before a primary elec-~~  
 31 ~~tion, or after the primary election but at least ten (10) days but no later~~  
 32 ~~than September 1 before the general election in the slate of general elec-~~  
 33 ~~tion candidates of any political party, except candidates for precinct com-~~  
 34 ~~mitteeman, shall be filled in the following manner if only one (1) candidate~~  
 35 ~~affiliated with a political party declared or was nominated for that partic-~~  
 36 ~~ular office:~~

37 (1a) By the county central committee if it is a vacancy by a candidate  
 38 for a county office~~;~~;

39 (2b) By the legislative district central committee if it is a vacancy by  
 40 a candidate for the state legislature~~;~~ or

41 (3c) By the state central committee if it is a vacancy by a candidate for  
 42 a federal or a state office.

43 (2) The county and legislative district central committee shall fill  
 44 the vacancy within fifteen (15) days from the date the vacancy occurred. The  
 45 state central committee shall fill the vacancy within thirty (30) days from  
 46 the date the vacancy occurred. Provided, however, that any vacancy must be

1 filled by no later than September 7 prior to the general election to appear on  
 2 the general election ballot.

3 (3) Any political party candidate so appointed by the proper central  
 4 committee must, in order to have his name on the general ballot, file a decla-  
 5 ration of candidacy and pay the required filing fee.

6 ~~Vacancies that occur in a slate of candidates for precinct committeeman~~  
 7 ~~within ten (10) days prior to the primary election shall not be filled.~~

8 SECTION 6. That Section 34-717, Idaho Code, be, and the same is hereby  
 9 amended to read as follows:

10 34-717. WITHDRAWAL OF CANDIDACY. (1) A candidate for nomination or  
 11 candidate for election to a partisan office may withdraw from the election  
 12 by filing a notarized statement of withdrawal with the officer with whom his  
 13 declaration of candidacy was filed. The statement must contain all informa-  
 14 tion necessary to identify the candidate and the office sought and the reason  
 15 for withdrawal. The filing officer shall immediately notify the proper  
 16 central committee of the party, if any, of the individual withdrawing. A  
 17 candidate may not withdraw later than ~~forty-five (45) days~~ the eighth Friday  
 18 before an election, except in the case of a primary election, when the dead-  
 19 line shall be no later than the eighth Friday preceding the primary election,  
 20 ~~or a general election, when the deadline shall be no later than September 7.~~  
 21 Filing fees paid by the candidate shall not be refunded.

22 (2) Any candidate who has filed a statement of withdrawal pursuant to  
 23 this section shall not be allowed to be appointed to fill a vacancy unless  
 24 such vacancy occurs because of the death of a previous candidate.

25 SECTION 7. That Section 34-1707, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 34-1707. SUFFICIENCY OF PETITION -- NOTIFICATION -- EFFECT OF RESIG-  
 28 NATION -- SPECIAL ELECTION. (1) In the event that a petition filed with the  
 29 secretary of state is found by the secretary of state to contain the required  
 30 number of certified signatures, the secretary of state shall promptly pro-  
 31 vide written notice to the officer being recalled and the petitioner that the  
 32 recall petition is in proper form. If the officer being recalled is the sec-  
 33 retary of state, the governor shall also be notified.

34 (a) If the officer being recalled resigns his office within five (5)  
 35 business days after notice from the secretary of state, his resignation  
 36 shall be accepted and the resignation shall take effect on the day it is  
 37 offered, and the vacancy shall be filled as provided by law.

38 (b) If the officer being recalled does not resign his office within five  
 39 (5) business days after notice from the secretary of state, the officer  
 40 being recalled shall file on the fifth business day the justification  
 41 statement required by section 34-1708, Idaho Code, with the secretary  
 42 of state, and a special election shall be ordered by the secretary of  
 43 state, unless he is the officer being recalled, in which event the gov-  
 44 ernor shall order such special election. The special election must be  
 45 held on the date prescribed in section 34-106, Idaho Code. If the offi-  
 46 cer being recalled is ~~one (1)~~ specified in section 34-1701(1) (a), Idaho  
 47 Code, the special election shall be conducted statewide. If the offi-

1 cer being recalled is ~~one (1)~~ specified in section 34-1701(1) (b), Idaho  
2 Code, the special election shall be conducted only in the legislative  
3 district.

4 (2) In the event that a petition filed with the county clerk is found  
5 by the county clerk to contain the required number of certified signatures,  
6 the county clerk shall promptly provide written notice to the officer being  
7 recalled and the petitioner that the recall petition is in proper form. If  
8 the officer being recalled is the county clerk, the secretary of state shall  
9 also be notified.

10 (a) If the officer being recalled resigns his office within five (5)  
11 business days after notice from the county clerk, his resignation shall  
12 be accepted and the resignation shall take effect on the day it is of-  
13 fered, and the vacancy shall be filled as provided by law.

14 (b) If the officer being recalled does not resign his office within five  
15 (5) business days after notice from the county clerk, the officer being  
16 recalled shall file on the fifth business day the justification state-  
17 ment required by section 34-1708, Idaho Code, with the county clerk,  
18 and a special election shall be ordered by the county clerk, unless the  
19 county clerk is the officer being recalled, in which event the secretary  
20 of state shall order the special election. The special election must be  
21 held on the date prescribed in section 34-106, Idaho Code. The special  
22 election shall be conducted countywide.

23 (3) In the event that a petition filed with the county clerk concerning  
24 the recall of an official of a city or special district is found by the county  
25 clerk to contain the required number of certified signatures, the county  
26 clerk shall promptly provide written notice to the officer being recalled,  
27 the petitioner, and the governing board of the city or special district that  
28 the recall petition is in proper form.

29 (a) If the officer being recalled resigns his office within five (5)  
30 business days after notice from the county clerk, his resignation shall  
31 be accepted and the resignation shall take effect on the day it is of-  
32 fered, and the vacancy shall be filled as provided by law.

33 (b) If the officer being recalled does not resign his office within five  
34 (5) business days after notice from the county clerk, the officer being  
35 recalled shall file on the fifth business day the justification state-  
36 ment required by section 34-1708, Idaho Code, with the county clerk, and  
37 a special election shall be ordered by the county clerk. The special  
38 election must be held on the date prescribed in section 34-106, Idaho  
39 Code. The election shall be conducted by the county clerk in the manner  
40 provided in section 34-1401, Idaho Code.

41 (4) In the event that a petition is found not to have the required number  
42 of signatures, the officer shall continue in office and no new recall peti-  
43 tion may be circulated for a period of ninety (90) days against the same offi-  
44 cer.

45 SECTION 8. An emergency existing therefor, which emergency is hereby  
46 declared to exist, this act shall be in full force and effect on and after  
47 July 1, 2022.