

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 454

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-402, IDAHO CODE, TO REVISE QUALIFICATIONS OF ELECTORS; AMENDING SECTION 34-1002, IDAHO CODE, TO PROVIDE A WRITTEN WARNING ON THE APPLICATION FOR AN ABSENT ELECTOR'S BALLOT FORM AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-1008, IDAHO CODE, TO REVISE PROCEDURES FOR COUNTING ABSENTEE BALLOTS; AMENDING CHAPTER 14, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-1414, IDAHO CODE, TO PROVIDE RESIDENCY REQUIREMENTS AND TO PROVIDE PROCEDURES; AND PROVIDING SEVERABILITY.

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

SECTION 1. That Section 34-402, Idaho Code, be, and the same is hereby amended to read as follows:

34-402. QUALIFICATIONS OF ELECTORS. Every male or female citizen of the United States, eighteen (18) years old, who has resided in this state and in the county for thirty (30) days where he or she offers to vote prior to the day of election, if registered within the time period provided by law, is a qualified elector. Every citizen who declares "permanent resident" status in any other country or state nullifies residency in Idaho regardless of that citizen's intention to return to Idaho, except as provided in title 50 U.S.C. App., section 595.

SECTION 2. That Section 34-1002, Idaho Code, be, and the same is hereby amended to read as follows:

34-1002. APPLICATION FOR ABSENTEE BALLOT -- PRIMARY ELECTIONS. (1) Any registered elector may make written application to the county clerk, or other proper officer charged by law with the duty of issuing official ballots for such election, for an official ballot or ballots of the kind or kinds to be voted at the election. The application shall contain the name of the elector, the elector's home address, county, and address to which such ballot shall be forwarded.

(2) In order to provide the appropriate primary election ballot to electors, in the event a political party elects to allow unaffiliated electors to vote in that party's primary election pursuant to section 34-904A, Idaho Code, the elector shall designate, as part of the written application for a ballot for primary elections, the elector's party affiliation or designation as "unaffiliated." The application shall contain checkoff boxes for "unaffiliated" electors by which such electors shall indicate for which party's primary ballot the "unaffiliated" elector chooses to vote. Provided however, that no political party's primary election ballot shall be provided to an "unaffiliated" elector for a political party that has not elected to allow "unaffiliated" electors to vote in that political party's primary

1 election pursuant to section 34-904A, Idaho Code. If an "unaffiliated"
2 elector does not indicate a choice of political party's primary election
3 ballot, the elector shall receive a nonpartisan ballot.

4 (3) In order to provide the appropriate primary election ballot to
5 electors, in the event one (1) or more political parties elect to allow elec-
6 tors affiliated with a different political party to vote in that party's
7 primary election, the application shall contain checkoff boxes by which such
8 electors may indicate the primary ballot in which the elector wishes to vote.

9 (4) For electors who are registered to vote as of January 1, 2012, and
10 who remain registered electors, the elector shall designate, as part of
11 the written application for a ballot for the 2012 primary elections, the
12 elector's party affiliation or designation as "unaffiliated." The appli-
13 cation shall contain checkoff boxes for "unaffiliated" electors by which
14 such electors shall indicate for which party's primary election ballot the
15 "unaffiliated" elector chooses to vote, pursuant to section 34-904A, Idaho
16 Code. Provided however, that no political party's primary election ballot
17 shall be provided to an "unaffiliated" elector for a political party that has
18 not elected to allow "unaffiliated" electors to vote in the party's primary
19 election pursuant to section 34-904A, Idaho Code. If an "unaffiliated"
20 elector does not indicate a choice of political party's primary election
21 ballot, the elector shall receive a nonpartisan ballot. After the 2012
22 primary election, the county clerk shall record the party affiliation or
23 "unaffiliated" designation so selected on the application for an absentee
24 ballot as part of such an elector's record within the voter registration
25 system as provided for in section 34-437A, Idaho Code.

26 (5) After the 2012 primary election, electors who remain registered
27 voters and who did not vote in the 2012 primary elections and who make written
28 application for an absentee ballot shall be designated as "unaffiliated"
29 electors as provided in section 34-404, Idaho Code, and such electors shall
30 be given the appropriate ballot for such "unaffiliated" designation pur-
31 suant to the provisions of this act.

32 (6) An elector may not change party affiliation or designation as "un-
33 affiliated" on an application for absentee ballot. For primary elections,
34 an elector may change party affiliation or designation as "unaffiliated" as
35 provided for in section 34-411A, Idaho Code.

36 (7) The application for an absent elector's ballot shall be signed
37 personally by the applicant. The application for a mail-in absentee ballot
38 shall be received by the county clerk not later than 5:00 p.m. on the sixth
39 day before the election. An application for in-person absentee voting at
40 the absent elector's polling place described in section 34-1006, Idaho Code,
41 shall be received by the county clerk not later than 5:00 p.m. on the Fri-
42 day before the election. Application for an absentee ballot may be made by
43 using a facsimile machine or other electronic transmission. In the event a
44 registered elector is unable to vote in person at the elector's designated
45 polling place on the day of election because of an emergency situation which
46 rendered the elector physically unable, the elector may nevertheless apply
47 for an absent elector's ballot on the day of election by notifying the county
48 clerk. No person may, however, be entitled to vote under an emergency situa-
49 tion unless the situation claimed rendered the elector physically unable to
50 vote at the elector's designated polling place within ninety-six (96) hours

1 prior to the closing of the polls. Each application for an absent elector's
 2 ballot form must contain the following: "WARNING: Any elector who supplies
 3 any information knowing it to be false is guilty of perjury, which is punish-
 4 able by imprisonment for not more than two (2) years, by a fine not in excess
 5 of two thousand dollars (\$2,000) or both. UNDER PENALTY OF LAW: By signing
 6 this application I certify that I am a citizen of the United States and that I
 7 shall have been a resident of Idaho and the county for thirty (30) days before
 8 the next election at which I vote and that I am or will be at least eighteen
 9 (18) years of age on election day; and I declare under oath or affirmation
 10 that the information supplied here is true."

11 (8) A person may make application for an absent elector's ballot by use
 12 of a properly executed federal post card application as provided for in the
 13 laws of the United States known as uniformed and overseas citizens absentee
 14 voting act (UOCAVA, 42 U.S.C. 1973 ff, et seq., as amended). The issuing of-
 15 ficer shall keep as a part of the records of such officer's office a list of
 16 all applications so received and of the manner and time of delivery or mail-
 17 ing to and receipt of returned ballot.

18 (9) The county clerk shall, not later than seventy-five (75) days af-
 19 ter the date of each general election, submit a report to the secretary of
 20 state containing information concerning absentee voters as required by fed-
 21 eral law.

22 SECTION 3. That Section 34-1008, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 34-1008. DEPOSIT OF ABSENTEE BALLOTS. Between the opening and closing
 25 of the polls on such election day the judges of election of such precinct
 26 shall open the carrier envelope only, announce the absent elector's name,
 27 and in the event they find such applicant to be a duly registered elector of
 28 the precinct and that he has not heretofore voted at the election, they shall
 29 open the return envelope and remove the ballot envelopes and deposit the same
 30 in the proper ballot boxes and cause the absent elector's name to be entered
 31 on the poll books the same as though he had been present and voted in per-
 32 son. The ballot envelope shall not be opened until the ballots are counted.
 33 Absentee ballot envelopes as well as the ballots they contain must be counted
 34 and secured. If there is more than one (1) ballot in an envelope, all ballots
 35 and the envelope are voided. Opening of absentee ballots before the closing
 36 of the polls is prohibited. The elector shall sign the return ballot enve-
 37 lope where the following is printed: "This envelope contains only the ballot
 38 marked and voted by one elector. Signature of elector."

39 SECTION 4. That Chapter 14, Title 34, Idaho Code, be, and the same is
 40 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 41 ignated as Section 34-1414, Idaho Code, and to read as follows:

42 34-1414. RESIDENCY REQUIREMENTS AND PROCEDURES. For all federal,
 43 state, county and municipal elections, the residency and elector qualifi-
 44 cation requirements of section 34-402, Idaho Code, shall apply. Election
 45 officials shall comply with title 50 U.S.C. App., section 595, by providing
 46 federal, state, county and municipal absentee election ballots to qualified
 47 Idaho electors and their spouses who are serving in the military outside the

1 state pursuant to written orders. Election officials also shall comply with
2 title 42 U.S.C. section 1973 ff, et seq., as amended, by providing separate
3 absentee ballots containing the federal election ballot to other qualified
4 Idaho electors living overseas and requesting absentee ballots. The sec-
5 retary of state shall instruct and require every county clerk or person in
6 charge of the conduct of a state, county or municipal election to have on
7 file with the secretary of state the written audit procedure to be in place
8 and governing the election to be held from ballot printing to the final vote
9 count seven (7) days prior to an election. The audit procedure shall be
10 signed by the person responsible for conducting the election. Any secretary
11 of state rules, policies, procedures or printed directives that amend or
12 contravene state statutes shall not be permitted.

13 SECTION 5. SEVERABILITY. The provisions of this act are hereby declared
14 to be severable and if any provision of this act or the application of such
15 provision to any person or circumstance is declared invalid for any reason,
16 such declaration shall not affect the validity of the remaining portions of
17 this act.