

IN THE SENATE

SENATE BILL NO. 1066

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PRIMARY ELECTIONS; AMENDING SECTION 34-102, IDAHO CODE, TO REVISE LANGUAGE RELATING TO PRIMARY ELECTIONS AND TO DEFINE A TERM; AMENDING SECTION 34-106, IDAHO CODE, TO PROVIDE THAT PRESIDENTIAL PRIMARIES SHALL BE HELD ON THE SECOND TUESDAY IN MARCH IN PRESIDENTIAL ELECTION YEARS, TO PROVIDE THAT PRESIDENTIAL PRIMARIES SHALL BE HELD SEPARATELY FROM OTHER PRIMARIES AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-204, IDAHO CODE, TO PROVIDE A CODE REFERENCE; AMENDING SECTION 34-601, IDAHO CODE, TO PROVIDE THAT PRESIDENTIAL PRIMARIES SHALL BE HELD ON THE SECOND TUESDAY IN MARCH IN PRESIDENTIAL ELECTION YEARS; AMENDING SECTION 34-713, IDAHO CODE, TO REVISE LANGUAGE RELATING TO PRIMARY BALLOTS; AMENDING CHAPTER 7, TITLE 34, IDAHO CODE, BY THE ADDITION OF NEW SECTIONS 34-731 THROUGH 34-738, IDAHO CODE, TO ESTABLISH A PRESIDENTIAL PRIMARY, TO PROVIDE THAT THE NAME OF A CANDIDATE SHALL APPEAR ON A PRESIDENTIAL PRIMARY BALLOT ONLY IF THE CANDIDATE FILES A DECLARATION OF CANDIDACY AND PAYS A FEE, TO PROVIDE THAT CANDIDATES MAY BE REMOVED FROM THE PRESIDENTIAL PRIMARY BALLOT IN CASES OF DEATH, INCAPACITY OR WITHDRAWAL, TO PROVIDE THAT ELECTORS AT A PRESIDENTIAL PRIMARY MAY VOTE FROM AMONG THE CANDIDATES OF ONE PARTY ONLY, TO PROVIDE THAT THE SECRETARY OF STATE SHALL CERTIFY PRIMARY RESULTS TO STATE PARTY CHAIRS AND TO PROVIDE THAT THE PRIMARY WINNER SHALL BE DECLARED ACCORDING TO PARTY RULES, TO PROVIDE THAT DELEGATES AND ALTERNATES TO THE NATIONAL CONVENTION SHALL BE SELECTED ACCORDING TO PARTY RULES, TO PROVIDE THAT PRESIDENTIAL PRIMARIES SHALL BE CONDUCTED LIKE OTHER PRIMARIES WHERE PRACTICABLE AND TO PROVIDE THAT THE STATE SHALL BEAR THE COSTS OF THE PRESIDENTIAL PRIMARY; AMENDING SECTION 34-740, IDAHO CODE, TO REVISE LANGUAGE RELATING TO RULES; AMENDING SECTION 34-904A, IDAHO CODE, TO REVISE LANGUAGE RELATING TO ELIGIBILITY TO VOTE IN PRIMARY ELECTIONS; AND AMENDING SECTION 34-1205, IDAHO CODE, TO REVISE LANGUAGE RELATING TO THE COUNTY BOARD OF CANVASSERS.

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

SECTION 1. That Section 34-102, Idaho Code, be, and the same is hereby amended to read as follows:

34-102. "PRIMARY ELECTION" DEFINED -- PURPOSES. (1) "Primary election" means an election held for the purpose of nominating persons as candidates of political parties for election to offices, and for the purpose of electing persons as members of the controlling committees of political parties. Primary elections, with the exception of presidential primaries, shall be held on the third Tuesday of May in each even-numbered year.

(2) "Presidential primary" means an election held for the purpose of allowing voters to express their choice of candidate for nomination by a political party for president of the United States. A presidential primary

1 shall be held on the second Tuesday in March in each presidential election
 2 year.

3 SECTION 2. That Section 34-106, Idaho Code, be, and the same is hereby
 4 amended to read as follows:

5 34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011,
 6 notwithstanding any other provisions of the law to the contrary, there shall
 7 be no more than two (2) elections conducted in any county in any calendar
 8 year, except as provided in this section, and except that elections to fill
 9 vacancies in the United States house of representatives shall be held as
 10 provided in the governor's proclamation.

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

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

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

14 (c) In addition to the elections specified in paragraphs (a) and (b)
 15 of this subsection ~~(1)~~ and subsection (7) of this section, an emergency
 16 election may be called upon motion of the governing board of a political
 17 subdivision. An emergency exists when there is a great public calamity,
 18 such as an extraordinary fire, flood, storm, epidemic, or other disas-
 19 ter, or if it is necessary to do emergency work to prepare for a national
 20 or local defense, or it is necessary to do emergency work to safeguard
 21 life, health or property.

22 (d) In addition to the elections specified elsewhere in this section,
 23 a presidential primary shall be held on the second Tuesday in March in
 24 each presidential election year. Presidential primaries shall be held
 25 separately from other primary elections, which shall be held on the
 26 third Tuesday in May even in presidential election years.

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

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

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

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

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

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

(8) Initiative, referendum, bond, levy and any other ballot question elections conducted by any political subdivision shall be held on the nearest date authorized in subsection (1) of this section which falls more than sixty (60) days after the clerk of the political subdivision orders that such election shall be held in May and November of even-numbered years and fifty (50) days for all other elections, unless otherwise provided by law. Ballot language for any question to be placed on the ballot shall be submitted to the county clerk at least sixty (60) days before the election held in May and November of even-numbered years and at least fifty (50) days for all other elections.

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

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

SECTION 3. That Section 34-204, Idaho Code, be, and the same is hereby amended to read as follows:

34-204. CONFERENCES WITH COUNTY CLERKS ON ADMINISTRATION OF ELECTION LAWS. In carrying out his responsibility under section ~~17~~ 34-201, Idaho Code, the secretary of state shall cause to be organized and conducted at convenient places and times in this state at least three (3) conferences on the administration of the election laws. The secretary of state shall cause written notice of the place and time of each conference to be given to each county clerk. Each county clerk or his designated deputy shall attend at least one (1) of the conferences and shall comply with the instructions given under the authority of the secretary of state at each conference such county clerk attends.

SECTION 4. That Section 34-601, Idaho Code, be, and the same is hereby amended to read as follows:

34-601. DATES ON WHICH ELECTIONS SHALL BE HELD. Elections shall be held in this state on the following dates or times:

(1) A primary election shall be held on the third Tuesday in May, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(2) A general election shall be held on the first Tuesday after the first Monday of November, 2012, and every two (2) years thereafter on the above-mentioned Tuesday.

(3) Special state elections shall be held on the dates ordered by the governor's proclamation, or as otherwise provided by law.

(4) A presidential primary shall be held on the second Tuesday in March in each presidential election year.

SECTION 5. That Section 34-713, Idaho Code, be, and the same is hereby amended to read as follows:

1 34-713. PREPARATION OF PRIMARY BALLOTS. Upon receipt of the sample
 2 ballot and instructions from the secretary of state, each county clerk shall
 3 print and prepare the official primary ballots for the forthcoming election.
 4 The printing of the ballots shall be a county expense and paid out of the
 5 county treasury except presidential primary ballots, which shall be paid for
 6 as provided in section 34-738, Idaho Code.

7 Each county clerk shall cause to be published on the earliest date pos-
 8 sible ~~in May~~ the names of all the political party candidates who shall appear
 9 on the primary or presidential primary ballot. The names shall be listed al-
 10 phabetically under each particular office title.

11 SECTION 6. That Chapter 7, Title 34, Idaho Code, be, and the same is
 12 hereby amended by the addition thereto of NEW SECTIONS, to be known and des-
 13 ignated as Sections 34-731 through 34-738, Idaho Code, and to read as fol-
 14 lows:

15 34-731. PRESIDENTIAL PRIMARY. (1) In years in which a president of the
 16 United States is to be nominated and elected, a presidential primary shall be
 17 held at which voters may express their choice of candidate for nomination by
 18 a political party for president. The presidential primary shall be held on
 19 the second Tuesday in March in each presidential election year.

20 (2) Participation in a presidential primary by a political party shall
 21 be optional, and nothing in this chapter shall be construed as mandating a
 22 party's participation in a presidential primary. Any party that intends to
 23 participate in a presidential primary shall notify the secretary of state's
 24 office no later than the last Tuesday in the November prior to the presiden-
 25 tial primary.

26 34-732. CANDIDATES. The name of any candidate for a political party
 27 nomination for president of the United States shall be printed on the ballots
 28 only if the candidate files with the secretary of state a declaration of can-
 29 didacy accompanied by a one thousand dollar (\$1,000) filing fee not less than
 30 ninety (90) days prior to the presidential primary.

31 34-733. REMOVAL FROM BALLOT. In the event the secretary of state is
 32 informed of a candidate's death, incapacity or withdrawal from candidacy,
 33 the secretary of state may remove the name of such candidate from the bal-
 34 lot, provided however, that no candidate's name shall be removed within the
 35 forty-five (45) days preceding the presidential primary.

36 34-734. VOTING. At a presidential primary, qualified electors may
 37 vote for one (1) candidate from among the candidates of one (1) political
 38 party only in a manner consistent with the provisions of section 34-904A,
 39 Idaho Code.

40 34-735. PRESIDENTIAL PRIMARY -- RESULTS. Upon completion of the state
 41 canvass for the presidential primary, the secretary of state shall certify
 42 to the state chair of each political party participating in the presidential
 43 primary the number of votes received by each candidate of that party. A win-
 44 ner shall be declared as prescribed by rule of the state and national party.

1 34-736. DELEGATES TO THE NATIONAL CONVENTION. Upon receiving the re-
 2 sults of the presidential primary pursuant to section 34-735, Idaho Code,
 3 each party participating in the presidential primary shall select, accord-
 4 ing to national and state party rules, as many delegates and alternates to
 5 the national party convention as are allotted to it by the national committee
 6 of that party.

7 34-737. CONDUCT OF ELECTION. Insofar as practicable, and where the
 8 provisions of this chapter do not specifically indicate otherwise, the pres-
 9 idential primary shall be conducted and canvassed in the manner provided by
 10 law for the conduct and canvassing of state primary elections.

11 34-738. COSTS OF PRESIDENTIAL PRIMARY. (1) Whenever a presidential
 12 primary is held as provided by this chapter, the state of Idaho shall assume
 13 all costs related to the presidential primary, including publication of
 14 legal notice and ballot preparation. The county clerk shall determine the
 15 costs and file a certified claim, which shall be examined, allowed and paid
 16 as other claims against the state are paid.

17 (2) The costs of any other election held simultaneous to the presiden-
 18 tial primary shall be covered in the manner elsewhere prescribed by law.

19 SECTION 7. That Section 34-740, Idaho Code, be, and the same is hereby
 20 amended to read as follows:

21 34-740. ~~RULES AND REGULATIONS~~. The secretary of state as chief elec-
 22 tion officer may adopt such rules ~~and regulations~~ as are necessary to facili-
 23 tate the operation, accomplishment and purpose of this ~~act~~ chapter.

24 SECTION 8. That Section 34-904A, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 34-904A. ELIGIBILITY TO VOTE IN PRIMARY ELECTIONS. (1) Except as
 27 provided in subsection (2) of this section, an elector who has designated a
 28 party affiliation shall be allowed to vote only in the primary or presiden-
 29 tial primary election of the political party for which such an elector is so
 30 registered.

31 (2) A political party qualified to participate in elections pursuant to
 32 section 34-501, Idaho Code, may, no later than ~~one hundred eighty (180) days~~
 33 the last Tuesday in the November prior to a primary or presidential election,
 34 notify the secretary of state in writing that the political party elects to
 35 allow, in addition to those electors who have registered with that political
 36 party, any of the following to vote in such party's primary or presidential
 37 primary election:

38 (a) Electors designated as "unaffiliated";

39 (b) Electors registered with a different political party qualified to
 40 participate in elections pursuant to section 34-501, Idaho Code. In the
 41 event a state chairman of a political party elects to allow electors to
 42 vote in that party's primary or presidential primary election pursuant
 43 to this paragraph (b), the state chairman shall identify which politi-
 44 cal parties' registrants are allowed to vote in such primary or presi-
 45 dential primary election.

(3) In the event that more than one (1) political party allows "unaffiliated" electors to vote in their party's primary or presidential primary election, an "unaffiliated" elector shall designate which political party's primary or presidential primary election the elector chooses to vote in by declaring such designation to the poll worker or other appropriate election personnel, who shall then record in the poll book the elector's choice. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, Idaho Code.

(4) In the event no more than one (1) political party allows "unaffiliated" electors to vote in their party's primary or presidential primary election, an "unaffiliated" elector may designate that political party's primary or presidential primary election as the election the elector chooses to vote in by declaring such designation to the poll worker or other appropriate election personnel, who shall then record in the poll book the elector's choice. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, Idaho Code.

(5) An "unaffiliated" elector having declared such designation as provided for in subsection (3) or (4) of this section shall not be permitted to vote in the primary or presidential primary election of any other party held on that primary or presidential primary election date.

(6) If an "unaffiliated" elector does not declare a choice of political party's primary or presidential primary election ballot, the elector shall not be permitted to vote in any political party's primary or presidential primary election but shall receive a nonpartisan ballot when such a ballot is available.

(7) In the event that one (1) or more political parties allow electors affiliated with a different political party to vote in their primary or presidential primary election pursuant to this section, an elector affiliated with a different political party shall declare to the poll worker or other appropriate election personnel in which primary or presidential primary election ballot such elector wishes to vote. The county clerk shall record such choice as part of the elector's voting history within the voter registration system as provided for in section 34-437A, Idaho Code.

Provided that all other provisions of this act are complied with, nothing in this section shall be construed to prohibit an elector designated as "unaffiliated" from voting in the primary or presidential primary election of a different party held in subsequent years. Notwithstanding any other provision of this act, if a political party allows "unaffiliated" electors to vote in that political party's primary or presidential primary election pursuant to this section, a vote by an "unaffiliated" elector in such primary or presidential primary election shall not change or affect the elector's "unaffiliated" designation.

SECTION 9. That Section 34-1205, Idaho Code, be, and the same is hereby amended to read as follows:

34-1205. COUNTY BOARD OF CANVASSERS -- MEETINGS. The county board of commissioners shall be the county board of canvassers and the county clerk shall serve as their secretary for this purpose. The county board of can-

1 vassers shall meet within seven (7) days after ~~the~~ a primary or presidential
2 primary election and within ten (10) days after ~~the~~ a general election for
3 the purpose of canvassing the election returns of all precincts within the
4 county.