

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 415

BY RUSCHE

AN ACT

RELATING TO ELECTIONS; AMENDING TITLE 34, IDAHO CODE, BY THE ADDITION OF A
NEW CHAPTER 26, TITLE 34, IDAHO CODE, TO PROVIDE FOR BOARD OF COUNTY COM-
MISSIONER AUTHORIZATION OF VOTE BY MAIL, TO SPECIFY ELECTIONS REQUIRED
OR ELIGIBLE TO BE CONDUCTED BY MAIL, TO PROVIDE PROCEDURES FOR CONDUCT-
ING ELECTIONS BY MAIL, TO PROVIDE PROCEDURES FOR THE ORDERING OF CANDI-
DATE NAMES ON THE VOTE BY MAIL BALLOT AND TO PROVIDE FOR THE APPLICABIL-
ITY OF OTHER LAWS; AMENDING SECTION 50-405, IDAHO CODE, TO PROVIDE FOR
CITY COUNCIL AUTHORIZATION OF VOTE BY MAIL SUBJECT TO SPECIFIED IDAHO
LAW AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Title 34, Idaho Code, be, and the same is hereby amended
by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
ter 26, Title 34, Idaho Code, and to read as follows:

CHAPTER 26
VOTE BY MAIL

34-2601. AUTHORIZATION BY BOARD OF COUNTY COMMISSIONERS. With ex-
press authorization from the board of county commissioners, the clerk of the
county board of commissioners shall conduct all primary, special and general
elections entirely by a vote by mail system. The board of county commission-
ers shall give the county clerk at least ninety (90) days' notice before the
first election to be conducted entirely by mail. If the board of county com-
missioners, after consultation with the county clerk, decides to return to a
polling place election environment, the board of county commissioners shall
give the county clerk at least ninety (90) days' notice before the first
election to be conducted using polling places. Authorization under this
section shall apply to all primary, special and general elections conducted
by the county clerk and in accordance with the provisions of section 34-1401,
Idaho Code.

34-2602. ELECTIONS REQUIRED OR ELIGIBLE. (1) Once designated by the
board of county commissioners, primary and general elections shall be con-
ducted by mail.

(2) Any election held pursuant to the provisions of section 34-1401,
Idaho Code, may be conducted by mail if so designated by the governing board
of the jurisdiction.

34-2603. PROCEDURES. (1) A vote by mail election shall be conducted as
provided in this section.

(2) At a minimum, the places designated under this section shall be open
on the date of the election for a period of eight (8) hours, but must be open

1 until at least 8:00 p.m. local time. At each place of deposit designated un-
 2 der this section, the county clerk shall prominently display a sign stating
 3 that the location is an official ballot drop site. The county clerk shall
 4 keep at least one (1) polling place open in each county for those who wish to
 5 vote at a polling place from 8:00 a.m. to 8:00 p.m. local time.

6 (3) (a) Except as provided in paragraph (b) of this subsection, the
 7 county clerk shall mail by nonforwardable mail an official ballot with
 8 a return identification envelope and a secrecy envelope not sooner than
 9 the eighteenth day before the date of a vote by mail election and not
 10 later than the fourteenth day before the date of the election, to every
 11 registered voter.

12 (b) Notwithstanding paragraph (a) of this subsection, in the case of
 13 ballots to be mailed to addresses outside this state, the county clerk
 14 shall follow the provisions of chapter 10, title 34, Idaho Code, regard-
 15 ing absentee voting.

16 (4) Election day registration shall be made available for each elec-
 17 tor who completes a voter registration in accordance with the provisions of
 18 section 34-408(3), Idaho Code. The county clerk shall make available to the
 19 registrant the official ballot, the return identification envelope and the
 20 secrecy envelope at the county clerk's office or at another place designated
 21 by the county.

22 (5) Upon receipt of any ballot described in this section, the elector
 23 shall mark the ballot, sign the return identification envelope supplied with
 24 the ballot and comply with the instructions provided with the ballot. The
 25 elector may return the marked ballot to the county clerk by United States
 26 mail or by depositing the ballot at the office of the county clerk or at any
 27 place of deposit designated by the county. The ballot must be returned in the
 28 return identification envelope. If the elector returns the ballot by mail,
 29 the elector must provide the proper postage. A ballot must be received at the
 30 office of the county clerk or a designated place of deposit not later than the
 31 8:00 p.m. local time on the date of the election.

32 (6) An elector may obtain a replacement ballot if the ballot is de-
 33 stroyed, spoiled, lost or not received by the elector. Replacement ballots
 34 shall be issued and processed as described in this section. The county clerk
 35 shall keep a record of each replacement ballot provided under this subsec-
 36 tion. Notwithstanding any deadline for mailing ballots in subsection (3) or
 37 (4) of this section, a replacement ballot may be mailed, made available in
 38 the office of the county clerk or at a location designated by the county. A
 39 replacement ballot need not be mailed after the fifth day before the date of
 40 the election.

41 (7) A ballot shall be counted only if:

42 (a) It is returned in the return identification envelope;

43 (b) The envelope is signed by the elector to whom the ballot is issued;
 44 and

45 (c) The signature is verified as provided in subsection (8) of this sec-
 46 tion.

47 (8) The county clerk shall verify the signature of each elector on the
 48 return identification envelope with the signature on the elector's regis-
 49 tration card, according to the procedure provided by rules adopted by the
 50 secretary of state. If the county clerk determines that an elector to whom a

1 replacement ballot has been issued has voted more than once, the county clerk
2 shall count only one (1) ballot cast by that elector.

3 (9) The county clerk shall begin official processing of returned bal-
4 lots in a vote by mail system including opening of both the outer envelope
5 and the inner secrecy envelope and removing the ballot from the envelope no
6 earlier than five (5) working days before the election. However, no bal-
7 lots shall be actually counted until the day of the election. The county
8 clerk shall be responsible for ensuring the security of the ballots at all
9 times, including restriction of access to any areas where ballots are stored
10 or counted.

11 (10) The requirements regarding certification, reporting and the mail-
12 ing of overseas and military ballots apply to elections conducted by mail
13 ballot.

14 (11) Ballots shall be counted in a manner consistent with the provi-
15 sions of chapters 12, 23 and 24, title 34, Idaho Code.

16 34-2604. ORDER OF CANDIDATE NAMES ON THE BALLOT. (1) Not later than
17 the sixty-ninth day before the date of any election held by vote by mail
18 process, the secretary of state shall complete a random ordering of the let-
19 ters of the alphabet.

20 (2) Not later than the sixty-eighth day before the date of any election
21 held by vote by mail, the secretary of state shall communicate to each county
22 clerk a copy of the random ordering of the letters of the alphabet.

23 (3) The county clerk shall arrange by surname the names of the candi-
24 dates on the ballot or ballot label in the random order of the letters of the
25 alphabet completed by the secretary of state under subsection (1) of this
26 section.

27 34-2605. APPLICABILITY OF OTHER LAWS. All election laws including,
28 but not limited to, bond election laws, city charters or ordinances, not
29 inconsistent with this chapter, shall apply to all elections in election
30 precincts where vote by mail systems are used. No provision of law or ordi-
31 nance, which in any way conflicts with this chapter or with the use of vote by
32 mail systems as provided in this chapter, shall operate to prohibit use of
33 vote by mail systems in any election or bond issue election.

34 SECTION 2. That Section 50-405, Idaho Code, be, and the same is hereby
35 amended to read as follows:

36 50-405. GENERAL AND SPECIAL CITY ELECTIONS. (1) A general election
37 shall be held in each city governed by this title, for officials as in this
38 title provided, on the Tuesday following the first Monday of November in
39 each odd-numbered year. All such officials shall be elected and hold their
40 respective offices for the term specified and until their successors are
41 elected and qualified. All other city elections that may be held under au-
42 thority of general law shall be known as special city elections.

43 (2) With express authorization from the city council and subject to the
44 provisions of chapter 26, title 34, Idaho Code, the city clerk shall conduct
45 all primary, special and general elections entirely by a vote by mail system.
46 The city council shall give the city clerk at least ninety (90) days' notice
47 before the first election to be conducted entirely by mail. If the city coun-

1 cil decides to return to a polling place election environment, the city coun-
 2 cil shall give the city clerk at least ninety (90) days' notice before the
 3 first election to be conducted using polling places. If a city chooses to
 4 have the county conduct any general or special election for it and if that
 5 county has adopted a vote by mail system pursuant to chapter 26, title 34,
 6 Idaho Code, the city election shall be conducted by mail ballot.

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

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

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

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

13 (c) In addition to the elections specified in paragraphs (a) and (b) of
 14 this subsection ~~(3)~~, an emergency election may be called upon motion of
 15 the city council of a city. An emergency exists when there is a great
 16 public calamity, such as an extraordinary fire, flood, storm, epidemic
 17 or other disaster, or if it is necessary to do emergency work to prepare
 18 for a national or local defense, or it is necessary to do emergency work
 19 to safeguard life, health or property.

20 (45) Pursuant to section 34-1401, Idaho Code, all municipal elections
 21 shall be conducted by the county clerk of the county wherein the city lies,
 22 and elections shall be administered in accordance with the provisions of ti-
 23 tle 34, Idaho Code, except as those provisions are specifically modified by
 24 the provisions of this chapter. After an election has been ordered, all ex-
 25 penses associated with conducting municipal general and special elections
 26 shall be paid from the county election fund as provided by section 34-1411,
 27 Idaho Code. Expenses associated with conducting runoff elections shall be
 28 paid by the city adopting runoff elections pursuant to the provisions of sec-
 29 tion 50-612 or 50-707B, Idaho Code, or both.

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