

IN THE SENATE

SENATE BILL NO. 1001

BY BURGOYNE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-102, IDAHO CODE, TO REVISE THE DEFINITION OF "PRIMARY ELECTION"; AMENDING SECTION 34-304, IDAHO CODE, TO REVISE WHO MAY BE CHALLENGERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-501, IDAHO CODE, TO REVISE THE DEFINITION OF A "POLITICAL PARTY" AND THE PROCEDURES FOR CREATION OF A POLITICAL PARTY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-703, IDAHO CODE, TO REVISE PROCEDURES FOR NOMINATION AT A PRIMARY ELECTION; AMENDING SECTION 34-705, IDAHO CODE, TO REVISE THE IDENTIFICATION OF THOSE WHO FILE DECLARATIONS OF CANDIDACY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 34-708, IDAHO CODE, TO REVISE PROVISIONS FOR INDEPENDENT CANDIDATES; AMENDING SECTION 34-712, IDAHO CODE, TO REVISE SAMPLE FORMS FOR PRIMARY ELECTION BALLOTS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 34-715, IDAHO CODE, TO REVISE PROCEDURES FOR FILLING OF VACANCIES OCCURRING BEFORE OR AFTER THE PRIMARY ELECTION; AMENDING SECTION 34-717, IDAHO CODE, TO REVISE PROVISIONS FOR WITHDRAWAL OF CANDIDACY; AMENDING SECTION 34-904, IDAHO CODE, TO REVISE REQUIREMENTS FOR PRIMARY ELECTION BALLOTS; AMENDING SECTION 34-906, IDAHO CODE, TO REVISE PROVISIONS FOR BALLOTS FOR GENERAL ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.

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 the top two~~ (2) candidates ~~of political parties~~ for election to partisan 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 shall be held on the second Tuesday in March in each presidential election year.

(3) A primary election is a first stage in the public process by which voters elect candidates to public office.

(4) Whenever candidates for a partisan office are to be elected, the general election must be preceded by a primary conducted under this chapter. Based upon votes cast at the primary, the top two (2) candidates will be certified as qualified to appear on the general election ballot, unless only one (1) candidate qualifies.

1 (5) For partisan office, if a candidate has expressed a party prefer-
 2 ence on the declaration of candidacy, then that preference will be shown af-
 3 ter the name of the candidate on the primary and general election ballots as
 4 set forth in rules of the secretary of state. A candidate may choose to ex-
 5 press no party preference. Any party preferences are shown for the informa-
 6 tion of voters only and may in no way limit the options available to voters.

7 SECTION 2. That Section 34-304, Idaho Code, be, and the same is hereby
 8 amended to read as follows:

9 34-304. CHALLENGERS -- WATCHERS. The county clerk shall, upon receipt
 10 of a written request, such request to be received no later than twelve (12)
 11 days prior to the day of election, direct that the election judges permit one
 12 (1) person authorized by each political party, ~~if the election is a parti-~~
 13 ~~san election,~~ and one (1) person authorized by each candidate or group of
 14 independent candidates to be at the polling place for the purpose of chal-
 15 lenging voters, and shall, if requested, permit any one (1) person autho-
 16 rized by a candidate, several candidates or a political party, to be present
 17 to serve as a watcher to observe the conduct of the election. Such autho-
 18 rization shall be evidenced by a writing signed by the county chairman and
 19 secretary of the political party, or independent candidate or group of inde-
 20 pendent candidates as the case may be, if the election is a partisan elec-
 21 tion, or by the candidate or candidates, and filed with the county clerk.
 22 Where the issue before the electors is other than the election of officers,
 23 the clerk shall, upon receipt of a written request, such request to be re-
 24 ceived no later than twelve (12) days prior to the date of voting on the is-
 25 sue or issues, direct that the election judges permit one (1) pro and one (1)
 26 con person to be at the polling place for the purpose of challenging voters
 27 and to observe the conduct of the election. Such authorization shall be ev-
 28 idenced in writing signed by the requesting person and shall state which po-
 29 sition relative to the issue or issues the person represents. Persons who
 30 are authorized to serve as challengers or watchers shall wear a visible name
 31 tag ~~which~~ that includes their respective titles. A watcher is entitled to
 32 observe any activity conducted at the location at which the watcher is serv-
 33 ing, provided however, that the watcher does not interfere with the orderly
 34 conduct of the election. If the watchers are present at the polling place
 35 when ballots are counted, they shall not absent themselves until the polls
 36 are closed. A watcher serving at a central counting station may be present
 37 at any time the station is open for the purpose of processing or preparing to
 38 process election results and until the election officers complete their du-
 39 ties at the station. If the county clerk does not receive the list of names of
 40 those desired to be present for the purpose of either poll watching or chal-
 41 lenging within the time prescribed above, the clerk shall not allow the pres-
 42 ence of such persons later seeking to serve in those capacities.

43 SECTION 3. That Section 34-501, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 34-501. "POLITICAL PARTY" DEFINED -- PROCEDURES FOR CREATION OF A PO-
 46 LITICAL PARTY. (1) A "political party," within the meaning of this act, is
 47 an organization of electors under a given name. A political party shall be

1 deemed created and qualified to participate in elections in any of the fol-
 2 lowing three (3) ways:

3 (a) By having three (3) or more candidates for state or national office
 4 listed under the party name at the last general election or by having at
 5 least three (3) primary election candidates for state or national of-
 6 ice, provided that those individuals seeking the office of president,
 7 vice president and president elector shall be considered one (1) candi-
 8 date~~r~~; or

9 (b) By polling at the last general election for any one (1) of its candi-
 10 dates for state or national office at least three ~~per cent~~ percent (3%)
 11 of the aggregate vote cast for governor or for presidential electors.

12 (c) By an affiliation of electors who shall have signed a petition ~~which~~
 13 that shall:

14 (A) State the name of the proposed party in not more than six (6)
 15 words;

16 (B) State that the subscribers thereto desire to place the pro-
 17 posed party on the ballot;

18 (C) Have attached thereto a sheet or sheets containing the sig-
 19 natures of at least a number of qualified electors equal to two
 20 ~~per cent~~ percent (2%) of the aggregate vote cast for presidential
 21 electors in the state at the previous general election at which
 22 presidential electors were chosen;

23 (D) Be filed with the secretary of state on or before August 30 of
 24 ~~even-numbered~~ even-numbered years;

25 (E) The format of the signature petition sheets shall be pre-
 26 scribed by the secretary of state and shall be patterned after,
 27 but not limited to, such sheets as used for state initiative and
 28 referendum measures;

29 (F) The petitions and signatures so submitted shall be verified in
 30 the manner prescribed in section 34-1807, Idaho Code~~;~~;

31 (G) The petition shall be circulated no earlier than August 30 of
 32 the year preceding the general election.

33 (2) Upon certification by the secretary of state that the petition has
 34 met the requirements of this act, such party shall, under the party name cho-
 35 sen, have all the rights of a political party whose ticket shall have been on
 36 the ballot at the preceding general election.

37 The newly certified party shall proceed to hold a state convention in
 38 the manner provided by law; provided, that at the initial convention of any
 39 such political party, all members of the party shall be entitled to attend
 40 the convention and participate in the election of officers and the nomina-
 41 tions of candidates. Thereafter, the conduct of any subsequent convention
 42 shall be as provided by law.

43 SECTION 4. That Section 34-703, Idaho Code, be, and the same is hereby
 44 amended to read as follows:

45 34-703. NOMINATION AT PRIMARY. (1) All political party and indepen-
 46 dent candidates for United States senator and representative in congress and
 47 all political party and independent candidates for elective state, district
 48 and county offices, except candidates for judicial office, at general elec-
 49 tions shall be nominated at the primary elections, ~~or~~ shall have their names

placed on the general election ballot as provided by law, and shall comply with the provisions of this act. At the primary election, candidates for federal, state, district and county offices shall be nominated as follows:

(a) If there is either one (1) or two (2) candidates for an office, such candidate or candidates shall be deemed nominated and placed on the general election ballot.

(b) If there are more than two (2) candidates, the two (2) nominees receiving the greatest number of votes shall be placed on the general election ballot.

(2) All candidates for judicial office shall be nominated or elected at the primary election, as provided by section 34-1217, Idaho Code.

(3) Independent candidates shall ~~not~~ be voted on at primary elections.

SECTION 5. That Section 34-705, Idaho Code, be, and the same is hereby amended to read as follows:

34-705. WITH WHOM DECLARATIONS FILED. All candidates for county offices, whether political party candidates or independent candidates, and all political party candidates for precinct offices shall file their declarations of candidacy with the county clerk of their respective counties. All candidates for district, state and federal offices shall file their declarations of candidacy with the secretary of state.

The secretary of state, shall certify to the county clerks, within ten (10) days after the filing deadline, the names of the political party candidates and independent candidates who filed for federal, state and district offices and are qualified and, by not later than the tenth day prior to the primary, shall certify the names of political party candidates who have been appointed by central committees to fill vacancies as provided by section 34-714, Idaho Code.

SECTION 6. That Section 34-708, Idaho Code, be, and the same is hereby amended to read as follows:

34-708. INDEPENDENT CANDIDATES. (1) ~~No~~ A person may offer himself as an independent candidate at the primary election but not at the general election unless that person is one (1) of the top two (2) recipients of votes for office in the primary election.

(2) Any person who desires to offer himself as an independent candidate for federal, state, district, or county office may do so by complying strictly with the provisions of this section. In order to be recognized as an independent candidate, each such candidate must file with the proper officer as provided by section 34-705, Idaho Code, a declaration of candidacy as an independent candidate, during the period specified in section 34-704, Idaho Code. Such declaration must state that he is offering himself as an independent candidate, must declare that he has no political party affiliation, and must declare the office for which he seeks election. Each such declaration must be accompanied by a petition containing the following number of signatures of qualified electors:

(a) One thousand (1,000) for any statewide office;

(b) Five hundred (500) for any congressional district office;

(c) Fifty (50) for any legislative district office;

1 (d) Five (5) for any county office.

2 (3) Signatures on the petitions required in this section shall be veri-
3 fied in the manner prescribed in section 34-1807, Idaho Code.

4 (4) If all of the requirements of this section have been met, the proper
5 officer shall cause the name of each independent candidate who has qualified
6 to be placed on the general election ballot, according to instructions of the
7 secretary of state.

8 SECTION 7. That Section 34-712, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 34-712. SAMPLE FORM FOR PRIMARY ELECTION BALLOTS. The secretary of
11 state shall provide the sample form of the primary election ballot to each
12 of the county clerks no later than forty (40) days prior to the primary. The
13 sample ballot shall contain the proper political party and independent can-
14 didates to be voted upon within the county whose declarations were filed and
15 certified in the office of the secretary of state with instructions for the
16 placing of political party and independent candidates seeking the ~~political~~
17 ~~party~~ nomination for county ~~and precinct~~ offices and political party candi-
18 dates seeking election to precinct offices. If a county is within more than
19 one (1) legislative district, the secretary of state shall provide a sample
20 ballot for each legislative district ~~which~~ that includes part of the county.

21 SECTION 8. That Section 34-715, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 34-715. FILLING OF VACANCIES OCCURRING BEFORE OR AFTER PRIMARY ELEC-
24 TION. Vacancies that occur during the ten (10) day period before a primary
25 election, or after the primary election but at least ten (10) days before the
26 general election in the slate of candidates of any political party, except
27 candidates for precinct committeeman, shall be filled in the following man-
28 ner:

29 (1) By the county central committee if it is a vacancy by a candidate for
30 a county office.

31 (2) By the legislative district central committee if it is a vacancy by
32 a candidate for the state legislature.

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

35 The county and legislative district central committee shall fill the
36 vacancy within fifteen (15) days from the date the vacancy occurred. The
37 state central committee shall fill the vacancy within thirty (30) days from
38 the date the vacancy occurred.

39 Notwithstanding the foregoing, if a political party has two (2) candi-
40 dates in the general election, a vacancy shall not be filled, but if it only
41 has one (1) it shall be filled as provided in this section.

42 Any political party candidate so appointed by the proper central com-
43 mittee must, in order to have his name on the general ballot, file a declara-
44 tion of candidacy and pay the required filing fee.

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

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

3 34-717. WITHDRAWAL OF CANDIDACY. (1) ~~Any candidate for nomination or~~
4 ~~candidate for election to a partisan office~~ may withdraw from the a primary
5 or general election by filing a notarized statement of withdrawal with the
6 officer with whom his declaration of candidacy was filed. The statement must
7 contain all information necessary to identify the candidate and the office
8 sought and the reason for withdrawal. The filing officer shall immediately
9 notify the proper central committee of the party, if any, of the individual
10 withdrawing. A candidate may not withdraw later than forty-five (45) days
11 before an election, except in the case of a primary election, when the dead-
12 line shall be no later than the eighth Friday preceding the primary election,
13 or a general election, when the deadline shall be no later than September 7.
14 Filing fees paid by the candidate shall not be refunded. Notwithstanding the
15 foregoing, if a political party has two (2) candidates in the general elec-
16 tion, a vacancy shall not be filled, but if it only has one (1) it shall be
17 filled as provided in this section.

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

21 SECTION 10. That Section 34-904, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 34-904. PRIMARY ELECTION BALLOTS. (1) ~~There shall be a separate A sin-~~
24 ~~gle primary election ballot shall be printed for each political party upon~~
25 ~~which its ticket shall be printed; however, a county may use federal, state,~~
26 ~~district and county offices; and a separate ballot for the office of precinct~~
27 ~~committeeman shall be printed. All candidates who have filed their declara-~~
28 ~~tions of candidacy and are subsequently certified shall be listed under the~~
29 ~~proper office titles on their political party ticket. On the ballot for fed-~~
30 ~~eral, state, district and county offices, the political party designated, if~~
31 ~~any, on the candidate's declaration of candidacy shall be shown after his or~~
32 ~~her name. The secretary of state shall design the primary election ballot to~~
33 ~~allow for write-in candidates under each office title.~~

34 (2) On the ballot for federal, state, district and county offices, ~~t~~The
35 office titles shall be listed in order beginning with the highest federal of-
36 fice and ending with ~~precinct~~ county offices. The secretary of state has the
37 discretion and authority to arrange the classifications of offices as pro-
38 vided by law.

39 ~~(3) It is not necessary to print a primary ballot for a political party~~
40 ~~which does not have candidates for more than half of the federal or statewide~~
41 ~~offices on the ballot if no more than one (1) candidate files for nomination~~
42 ~~by that party for any of the offices on the ballot. The secretary of state~~
43 ~~shall certify that no primary election is necessary for that party if such~~
44 ~~is the case and shall certify to the county clerk the names of candidates for~~
45 ~~that party for the general election ballot only.~~

46 SECTION 11. That Section 34-906, Idaho Code, be, and the same is hereby
47 amended to read as follows:

1 34-906. BALLOTS FOR GENERAL ELECTIONS. There shall be a single gen-
2 eral election ballot on which the ~~complete ticket of each political party~~
3 candidates receiving the most and the second most votes for an office in the
4 primary election shall be printed along with the political party designated,
5 if any, on their declarations of candidacy. ~~Each political party ticket~~
6 ~~shall include that party's nominee for each particular office.~~ The secre-
7 tary of state shall design the general election ballot to allow for write-in
8 candidates under each office title.

9 The office titles shall be listed in order beginning with the highest
10 federal office. The secretary of state has the discretion and authority to
11 arrange the above classifications of offices as provided by law.

12 At any general election at which the electors are to vote upon consti-
13 tutional amendments or other issues, the secretary of state shall provide
14 separate general election ballot forms on which such amendments and issues
15 shall be printed.

16 SECTION 12. This act shall be in full force and effect on and after De-
17 cember 1, 2017.