

TITLE 31  
COUNTIES AND COUNTY LAW

CHAPTER 58  
CHARTER FORM OF COUNTY GOVERNMENT

31-5801. CHARTER FORM. The form of government provided in this chapter shall be known as the "charter" form. A charter form of government shall be established by a written charter approved by a majority of the electors of the county as provided in this chapter. The charter form as provided in this chapter shall be an authorized optional form of county government within the meaning of article XVIII, section 12 of the Idaho Constitution, and shall be authorized in addition to those optional forms provided in chapters 50 through 57, [title 31](#), Idaho Code. Unless provided otherwise in this chapter, the provisions of the optional forms of county government act shall apply to this chapter.

[31-5801, added 1996, ch. 129, sec. 1, p. 448.]

31-5802. ELECTION OF CHARTER COMMISSION -- CHARTER SUBMITTED TO ELECTORS. (1) The charter to be submitted to the electors shall be drafted by a charter commission to be elected upon the approval of a petition or resolution to elect a charter commission as provided in subsection (2) of this section.

(2) The question of whether a charter commission shall be elected shall be submitted to the voters upon a petition or resolution initiated as provided in section [31-5004](#)(1), Idaho Code. The petition or resolution to elect a charter commission shall contain a statement of the anticipated costs and expenditures of the charter commission and a description of the revenue sources intended to meet those costs and expenditures.

(3) The question of electing a charter commission shall be submitted as follows:

Shall a charter commission, comprised of (state number) commissioners, be elected to draft a charter for (name county)?

(4) Any county approving the election of a charter commission shall continue to operate under its existing form of government until a charter has been approved by the electors. If a charter has not been adopted by the electors within four (4) years of the election of a charter commission, the charter commission shall be deemed dissolved by operation of law. Any subsequent question of whether a charter commission should be elected to draft a proposed charter for the county must be resubmitted to the electors as provided in this chapter.

(5) The charter commission shall submit a proposed charter to the electors at a general election. If the charter commission submits a charter to the electors, the question shall be submitted as follows:

Vote for one:

In favor of retaining the (name current form of government) form of county government.

In favor of adopting the charter proposed for (name county).

(6) Any amendment to a charter must be approved by a majority of the electors of the county voting at a general election. Amendments may be submitted upon a majority vote of the governing body, or upon a petition to amend the charter, the requirements for which shall be specified in the charter.

[31-5802, added 1996, ch. 129, sec. 1, p. 448.]

31-5803. CHARTER COMMISSION -- QUALIFICATIONS -- ELECTION. (1) The petition or resolution to elect a charter commission shall specify the number of commissioners to be elected, which shall be an odd number of not less than five (5) nor more than nine (9) members. Members of the commission shall be elected on a nonpartisan basis.

(2) The question to elect a charter commission shall be submitted at the primary election. If the question receives a majority vote, the members of the commission shall be elected at the following general election.

(3) Each member of the charter commission shall be a qualified elector of the county and shall have resided in the county one (1) year preceding his election. Elected officials of the county shall not be eligible.

[31-5803, added 1996, ch. 129, sec. 1, p. 449.]

31-5804. CHARTER COMMISSION TERMS -- VACANCIES. (1) The term of office of a member of a charter commission begins when a certificate of his election has been issued and concludes thirty (30) days after the election to adopt the charter proposed by the commission, or four (4) years after his election, whichever is earlier.

(2) Vacancies on the commission shall be filled by appointment of the governing body within thirty (30) days after the vacancy occurs.

(3) Members shall serve without compensation, but shall be reimbursed for expenses lawfully incurred in the performance of their duties.

[31-5804, added 1996, ch. 129, sec. 1, p. 449.]

31-5805. CHARTER COMMISSION -- ORGANIZATION -- MEETINGS -- CONDUCT OF BUSINESS. A charter commission shall meet within thirty (30) days of its election and shall organize by electing from its members a chairman, a vice-chairman, and clerk-secretary. The provisions of section [31-5104](#), Idaho Code, shall apply to a charter commission, except as otherwise specified in this chapter.

[31-5805, added 1996, ch. 129, sec. 1, p. 449.]

31-5806. CHARTER -- PUBLICATION -- DISSOLUTION OF CHARTER COMMISSION. (1) Upon the approval of the charter by a majority of the full membership of the charter commission, copies shall be prepared for public distribution and must be available not less than thirty (30) days prior to the election on adopting the charter. The text of the charter or a summary thereof shall be published in the official newspaper of the county once each week for two (2) successive weeks within thirty (30) days after its approval by the commission and again within not less than fourteen (14) days prior to the election on the charter.

(2) The charter commission shall be deemed dissolved by operation of law thirty (30) days after the charter is adopted or within four (4) years after its election if no charter is adopted within that time.

[31-5806, added 1996, ch. 129, sec. 1, p. 449.]

31-5807. POWERS OF COUNTY UNDER CHARTER. A county, by charter, may have and exercise all of the powers, duties, privileges and rights available to a

county under the constitution and laws of the state of Idaho. The enumeration of powers in a charter shall not expand the county's powers granted by the constitution or laws of the state of Idaho, nor shall a charter limit or prohibit the performance of duties required to be performed by the county under the constitution or laws of the state of Idaho. In the event of any conflict between the provisions of a charter and the provisions of the constitution or statutes of the state of Idaho, or the United States, the constitution and statutes shall prevail.

[31-5807, added 1996, ch. 129, sec. 1, p. 449.]

31-5808. CHARTER PROVISIONS -- ELECTED LEGISLATIVE BODY -- EXECUTIVE STRUCTURE -- TAX ADMINISTRATION. (1) The charter shall expressly provide for an elected legislative body to perform the legislative functions of the county government. The charter shall define the following:

- (a) Name of the legislative body;
- (b) Number of members;
- (c) Terms of office;
- (d) Qualifications of office;
- (e) Manner of filling vacancies;
- (f) Date and manner of election and whether at large or by districts;
- (g) Whether the election shall be partisan or nonpartisan;
- (h) The powers and duties of the legislative body; and
- (i) Any other information necessary to give a complete description of the legislative structure of the county government.

(2) The charter shall expressly define the officers who will perform the executive functions of the county government, including, without limitation, the chief executive and administrative officer or officers, the chief financial officer, the chief law enforcement officer, and the officer responsible for performing the duties and functions of the prosecuting attorney. With respect to each officer performing executive functions the charter shall define the following:

- (a) Whether appointed, hired on a contractual basis, or elected; and, if elected,
- (b) The term of office;
- (c) The qualifications for office;
- (d) The manner of filling vacancies;
- (e) The date of election;
- (f) Whether the election shall be partisan or nonpartisan;
- (g) The powers and duties of each officer;
- (h) The departments or other organizational structures which will comprise the executive branch of the government; and
- (i) Any other information necessary to provide a complete description of the executive structure of the government.

(3) The charter shall expressly define the officers responsible for the performance of the powers and duties of the county with respect to taxation, including, without limitation, all those duties required by law to be performed by the board of county commissioners, the county assessor, the county treasurer and the county auditor. The charter shall provide the duties and functions of each officer.

(4) Notwithstanding the foregoing, the charter may provide that executive and administrative functions will be performed by one (1) or more members of the legislative body.

[31-5808, added 1996, ch. 129, sec. 1, p. 450.]

31-5809. OTHER CHARTER PROVISIONS -- EFFECTIVE DATE OF CHARTER. The charter shall include such provisions as may be necessary to permit an orderly transition to the new form of government. The listing of charter provisions in this chapter shall not be construed to prevent the inclusion of additional lawful provisions in charters. The charter shall specify the date on which the charter will take effect.

[31-5809, added 1996, ch. 129, sec. 1, p. 450.]