

TITLE 40
HIGHWAYS AND BRIDGES

CHAPTER 22

DETACHMENT OF TERRITORY BY PETITION AND ORGANIZATION OF NEW DISTRICT

40-2201. HIGHWAY DISTRICTS SUBJECT TO DETACHMENT. A portion of the territory of an existing highway district, provided that the district is not a single county-wide highway district organized under the provisions of [chapter 14, title 40](#), Idaho Code, whether the district is situated wholly in one (1) or more counties, may be detached from the highway district and established as a new highway district as provided in this chapter.

[(40-2201) 40-2101, added 1994, ch. 331, sec. 1, p. 1061; am. and re-desig. 2005, ch. 25, sec. 82, p. 117.]

40-2202. PETITION. Whenever electors of a portion of the territory embraced in any existing highway district desire that their portion be detached from the highway district and organized into a new highway district, a petition describing the territory by its boundaries, signed by not less than ten (10) electors qualified to vote at a highway district election and residing in the territory sought to be detached shall be presented to the commissioners of the highway district.

[(40-2202) 40-2102, added 1994, ch. 331, sec. 1, p. 1061; am. 2005, ch. 25, sec. 83, p. 117.]

40-2203. ORDER FOR HEARING UPON PETITION. Immediately upon its next regular meeting or at a special meeting called for that purpose, the highway district commissioners shall by order or resolution fix a time and place for a hearing of the petition, which time shall not be less than twenty-one (21) days from and after the date of the first publication of the notice of the petition and of the hearing.

[(40-2203) 40-2103, added 1994, ch. 331, sec. 1, p. 1061; am. 2005, ch. 25, sec. 84, p. 118.]

40-2204. NOTICE OF HEARING AND PETITION. The highway district commissioners shall require their clerk to have a notice published in accordance with the provisions of section [40-206](#), Idaho Code, setting forth the fact that a petition has been filed with the commissioners. The notice shall state the name of the highway district from which territory is proposed to be detached and organized into a new highway district; a concise description of the boundaries of the territory so proposed to be detached and organized into a new highway district; the current bonded and current warrant indebtedness of the district; a notice of the time and place when and where the petition will be heard by the highway district commissioners; and notice that any elector qualified to vote at an election of the highway district may, prior to or at the time of the hearing, file with the highway district clerk written objections to the proposed detachment and organization of said territory.

[(40-2204) 40-2104, added 1994, ch. 331, sec. 1, p. 1061; am. and re-desig. 2005, ch. 25, sec. 85, p. 118.]

40-2205. HEARING -- ORDER FOR DETACHMENT AND ORGANIZATION. At the time and place specified in the notice, the highway district commissioners shall consider the petition and all written objections filed with them and shall hear all persons in relation to it. Upon the conclusion of the hearing, which may be continued from day to day, if the commissioners shall determine that the detachment from the highway district of the territory described in the petition is practicable and to the best interests of the territory and of the highway district, they shall, within ten (10) days, make and enter an order directing that the territory be detached from the highway district and be organized into a new highway district at a date not less than thirty (30) nor more than sixty (60) days from and after the date of the order.

[(40-2205) 40-2105, added 1994, ch. 331, sec. 1, p. 1061; am. and re-desig. 2005, ch. 25, sec. 86, p. 118.]

40-2206. NEW HIGHWAY DISTRICT -- ESTABLISHMENT OF SUBDISTRICTS. When the commissioners of the existing highway district order the establishment of a new highway district, they shall have the duty to name the new highway district and to divide the new highway district into three (3) subdistricts, as nearly equal in population, area and mileage as practicable, to be known as highway commissioners subdistricts one, two and three. Subdistricts may be revised or modified as changes in conditions demand. Not more than one (1) of the highway district commissioners shall be an elector of the same highway subdistrict.

[(40-2206) 40-2106, added 1994, ch. 331, sec. 1, p. 1062; am. and re-desig. 2005, ch. 25, sec. 87, p. 118.]

40-2207. FIRST COMMISSIONERS OF NEW HIGHWAY DISTRICT. The existing highway district commissioners shall appoint a qualified elector to serve as a highway district commissioner for each of the subdistricts of the new highway district. The commissioners shall provide each of the commissioners appointed to the new highway district with a certificate of appointment. Each appointed highway district commissioner shall take and subscribe the official oath, which oath shall be filed in the office of the newly organized highway district commissioners. The first commissioners shall serve until the next highway district election as specified in section [40-1305](#), Idaho Code.

[(40-2207) 40-2107, added 1994, ch. 331, sec. 1, p. 1062; am. and re-desig. 2005, ch. 25, sec. 88, p. 119.]

40-2208. ORGANIZATION AND OPERATION OF NEW HIGHWAY DISTRICT. The newly organized highway district shall be organized and operated in accordance with the provisions of [chapter 13, title 40](#), Idaho Code, except for the provisions of sections [40-1323](#), [40-1333](#) and [40-1334](#), Idaho Code. All of the public highways, public rights-of-way and public streets located within the boundaries of any unincorporated city located within the new highway district shall be under the exclusive jurisdiction of the new highway district and such highways and streets shall be eligible for maintenance and construction with highway district funds in the same manner as any other highways in the highway district system.

[(40-2208) 40-2108, added 1994, ch. 331, sec. 1, p. 1062; am. and re-desig. 2005, ch. 25, sec. 89, p. 119.]

40-2209. EFFECT OF DETACHMENT OF TERRITORY -- APPORTIONMENT OF INDEBTEDNESS. The detachment of territory from the district shall be deemed to relate only to the operations of the district subsequent to the order of detachment. Territory detached and all taxable property in that territory shall be and remain liable for the proportionate share of all bonded, warrant, and other indebtedness incurred by the district prior to the time of detachment. The proportionate share of the indebtedness of the district incurred prior to the order of detachment shall be borne by the detached territory and shall be computed as provided in section [40-1609](#), Idaho Code.

[(40-2209) 40-2109, added 1994, ch. 331, sec. 1, p. 1062; am. and re-desig. 2005, ch. 25, sec. 90, p. 119.]

40-2210. VALIDITY OF OUTSTANDING BONDS AND WARRANTS NOT AFFECTED. Nothing in this chapter shall be construed as impairing the validity of any bonds or warrants of a highway district outstanding at the time of the detachment of any territory.

[(40-2210) 40-2110, added 1994, ch. 331, sec. 1, p. 1062; am. and re-desig. 2005, ch. 25, sec. 91, p. 120.]

40-2211. FILING OF CERTIFIED COPY OF ORDER. The commissioners shall cause a certified copy of the order of detachment of territory and organization of the new highway district to be filed for record in the office of the county recorder of the county in which the highway district is situate, and shall transmit a certified copy of the order to the highway district commissioners of the newly organized highway district.

[(40-2211) 40-2111, added 1994, ch. 331, sec. 1, p. 1063; am. and re-desig. 2005, ch. 25, sec. 92, p. 120.]

40-2212. HIGHWAY DISTRIBUTION ACCOUNT -- ELIGIBILITY. After the new highway district has been organized and in operation for a full quarter of a calendar year, the newly organized highway district shall be eligible for apportionment of funds from the highway distribution account as provided in section [40-709](#), Idaho Code.

[(40-2212) 40-2112, added 1994, ch. 331, sec. 1, p. 1063; am. and re-desig. 2005, ch. 25, sec. 93, p. 120.]

40-2213. TRANSFER OF PROPERTY, FUNDS AND MATERIEL. Except for the highways, bridges, public streets and public rights-of-way within the detached territory, none of the property, either real or personal, or any funds, materiel, supplies or equipment owned and under the control of the highway district from which the territory was detached shall be transferred to the newly organized highway district unless specifically authorized in writing by the highway district owning and controlling such property. However, the highway district organizing the new highway district may provide property, funds, personnel, materiel or services to the newly organized highway district in accordance with the provisions of section [67-2328](#), Idaho Code.

[(40-2213) 40-2113, added 1994, ch. 331, sec. 1, p. 1063; am. and re-design. 2005, ch. 25, sec. 94, p. 120.]