

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 532

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING CHAPTER 2, TITLE 34, IDAHO CODE, BY THE AD-
2 DITION OF A NEW SECTION 34-219, IDAHO CODE, TO ESTABLISH PROVISIONS RE-
3 GARDING JUDICIAL REVIEW OF ELECTION RESULTS; AMENDING SECTION 34-106,
4 IDAHO CODE, TO PROVIDE AN EXCEPTION AND TO MAKE A TECHNICAL CORRECTION;
5 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
6

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

8 SECTION 1. That Chapter 2, Title 34, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 34-219, Idaho Code, and to read as follows:

11 34-219. JUDICIAL REVIEW -- ELECTION RESULTS. (1) If the vote count in
12 an election has been completed and it appears to the secretary of state or a
13 county clerk that an error has occurred in the administration of such elec-
14 tion that may be sufficient to change the result of the election, then the
15 secretary of state or clerk of the county in which such error appears to have
16 occurred may petition the district court of the county in which the error
17 appears to have occurred for judicial review of the election. The petition
18 shall be filed within twenty-eight (28) days of the date of the election.

19 (2) The secretary of state or the county clerk initiating a petition un-
20 der this section shall serve notice of the petition on:

21 (a) Any candidate appearing on the ballot in such election; and

22 (b) Any taxing district or other party responsible for placing an ini-
23 tiative, a referendum, or another question on the ballot in such elec-
24 tion.

25 (3) The district court may:

26 (a) Give such precedence on its docket to a petition under this section
27 as the circumstances may require; and

28 (b) Consider any evidence related to the error alleged in the petition.

29 (4) The scope of the district court's review shall be limited to whether
30 the error alleged in the petition occurred and, if so, whether the error was
31 sufficient to change the result of the election. If the court determines
32 that the error was sufficient to change the result of the election, then the
33 court shall declare the election void and order a new election to be held at
34 the expense of the agency where the error occurred. The new election shall be
35 held as soon as practicable and need not occur on a date provided in section
36 34-106, Idaho Code.

37 (5) Court proceedings held pursuant to this section shall be conducted
38 according to the Idaho rules of civil procedure, as applicable, and any other
39 rules deemed pertinent by the district court.

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

1 34-106. LIMITATION UPON ELECTIONS. On and after January 1, 2011,
2 notwithstanding any other provisions of the law to the contrary, there shall
3 be no more than two (2) elections conducted in any county in any calendar
4 year, except as provided in this section or section 34-219, Idaho Code, and
5 except that elections to fill vacancies in the United States house of repre-
6 sentatives shall be held as provided in the governor's proclamation.

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

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

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

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

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

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

26 (3) Candidates for office elected in November shall take office as
27 provided in the constitution, or on January 1~~7~~ next succeeding the November
28 election.

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

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

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

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

46 (8) A city initiative or referendum election shall be held on the Tues-
47 day following the first Monday in November of odd-numbered years. A county
48 initiative or referendum election or a bond, levy and any other ballot ques-
49 tion elections conducted by any political subdivision shall be held on the
50 nearest date authorized in subsection (1) of this section which falls more

1 than sixty (60) days after the clerk of the political subdivision orders that
2 such election shall be held in May or November of even-numbered years or more
3 than fifty (50) days after the order for all other elections, unless other-
4 wise provided by law. Ballot language for any question to be placed on the
5 ballot shall be submitted to the county clerk at least sixty (60) days before
6 an election held in May or November of even-numbered years and at least fifty
7 (50) days before all other elections.

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

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

17 SECTION 3. An emergency existing therefor, which emergency is hereby
18 declared to exist, this act shall be in full force and effect on and after
19 July 1, 2022.