

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 567, As Amended

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO CEMETERY MAINTENANCE DISTRICTS; AMENDING SECTION 27-110,  
2 IDAHO CODE, TO ALLOW FOR FIVE COMMISSIONERS WHEN CONSOLIDATION OCCURS;  
3 AMENDING SECTION 27-111, IDAHO CODE, TO PROVIDE THAT CERTAIN CEMETERY  
4 MAINTENANCE DISTRICT COMMISSIONERS MAY BE ELECTED AT LARGE AND TO MAKE A  
5 TECHNICAL CORRECTION; AMENDING SECTION 27-121, IDAHO CODE, TO PROVIDE  
6 THE EFFECT OF DISTRICT CONSOLIDATION ON PROPERTY TAX BUDGETS; AMENDING  
7 SECTION 27-125, IDAHO CODE, TO INCREASE THE AMOUNT OF A DISTRICT'S BUD-  
8 GET BEFORE A PUBLIC HEARING MUST BE HELD; AMENDING SECTION 27-126, IDAHO  
9 CODE, TO REVISE THE NOTICE REQUIREMENTS; AND AMENDING CHAPTER 1, TITLE  
10 27, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 27-129, IDAHO CODE, TO  
11 PROVIDE PROCEDURES FOR CONSOLIDATION OF CEMETERY MAINTENANCE DISTRICTS  
12 AND AN ELECTION.  
13

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

15 SECTION 1. That Section 27-110, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 27-110. TERM OF OFFICE -- VACANCIES. (1) At the meeting of the board of  
18 county commissioners at which the cemetery maintenance district is declared  
19 organized, as provided by section 27-108, Idaho Code, said board of county  
20 commissioners shall divide the cemetery maintenance district into three (3)  
21 subdivisions, as nearly equal in population, area and mileage as practica-  
22 ble, to be known as cemetery maintenance commissioners subdistricts one, two  
23 and three. Not more than one (1) of said commissioners shall be an elec-  
24 tor of the same cemetery maintenance subdistrict. The first commissioners  
25 appointed by the board of county commissioners shall serve until the next  
26 cemetery maintenance district election, at which their successors shall be  
27 elected. Any vacancy occurring in the office of the cemetery maintenance  
28 commissioner, other than by the expiration of the term of office, shall be  
29 filled by the cemetery maintenance board.

30 (2) A cemetery maintenance district created from the consolidation  
31 of two (2) or more cemetery maintenance districts as provided in section  
32 27-129, Idaho Code, may operate with five (5) cemetery maintenance commis-  
33 sioners subdistricts.

34 SECTION 2. That Section 27-111, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 27-111. ELECTION OF COMMISSIONERS. (1) On the first Tuesday following  
37 the first Monday in November and every odd-numbered year thereafter, three  
38 (3) cemetery maintenance district commissioners shall be elected by the  
39 electors of each cemetery district as defined in section 27-104, Idaho Code.  
40 For commissioners whose offices expire in 2012 and in any even-numbered

1 year, such commissioners shall remain in office until the next election in an  
 2 odd-numbered year. The county clerk shall conduct the election in a manner  
 3 consistent with statutory provisions of chapter 14, title 34, Idaho Code.

4 (2) For cemetery maintenance districts consisting of less than one  
 5 hundred fifty (150) registered electors, the cemetery maintenance district  
 6 commissioners may be elected at large. For all other districts, of the  
 7 commissioners comprising the board at any one (1) time, not more than one  
 8 (1) shall be an elector of the same cemetery maintenance commissioners sub-  
 9 district. A commissioner shall be an elector of the subdistrict which he  
 10 represents at the time of his declaration of candidacy and during his term of  
 11 office. A qualified elector of the cemetery maintenance district shall be  
 12 eligible to vote for each of the cemetery maintenance district commis-  
 13 sioners. At the first election following the formation of a cemetery maintenance  
 14 district, commissioners from cemetery maintenance subdistricts one (1) and  
 15 two (2) shall be elected for terms of four (4) years, and the commissioner  
 16 from cemetery maintenance subdistrict three (3) shall be elected for a term  
 17 of two (2) years; thereafter the term of office of all commissioners shall  
 18 be four (4) years. All elections held under this law, shall be held in con-  
 19 formity with the general laws of the state, including chapter 14, title 34,  
 20 Idaho Code.

21 (23) In any election for cemetery maintenance district commissioners,  
 22 if, after the expiration of the date for filing a declaration of intent as a  
 23 write-in candidate for the office of commissioner, it appears that only one  
 24 (1) qualified candidate has been nominated for each position to be filled,  
 25 it shall not be necessary to hold an election, and the board of commis-  
 26 sioners shall declare such candidate elected as commissioner, and the secretary  
 27 shall immediately make and deliver to such person a certificate of election  
 28 signed by him bearing the seal of the district. The procedure set forth in  
 29 this subsection shall not apply to any other cemetery maintenance district  
 30 election.

31 (4) A cemetery maintenance district created from the consolidation  
 32 of two (2) or more cemetery maintenance districts as provided in section  
 33 27-129, Idaho Code, may operate with five (5) cemetery maintenance commis-  
 34 sioners.

35 SECTION 3. That Section 27-121, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 27-121. LEVIES BY CEMETERY MAINTENANCE BOARD COMMISSIONERS. (1) At  
 38 the last regular meeting of the cemetery maintenance board prior to the  
 39 second Monday of September in each year, the cemetery board of each ceme-  
 40 tery maintenance district may levy for cemetery purposes a property tax in  
 41 each cemetery maintenance district of not more than four hundredths of one  
 42 percent (.04%) of the market value for assessment purposes on all taxable  
 43 property within the cemetery maintenance district. Upon the levy being made  
 44 by the cemetery maintenance board under this section, it shall be the duty of  
 45 the secretary of the district to transmit to the county auditor and county  
 46 assessor and the state tax commission certified copies of the resolution  
 47 providing for such levy as provided in section 63-808, Idaho Code. Said  
 48 taxes shall be collected as provided in section 63-812, Idaho Code.

1           (2) If two (2) or more cemetery maintenance districts consolidate into  
 2 one (1) district, the provisions of section 63-802, Idaho Code, shall ap-  
 3 ply to the consolidated district's budget request as if the former district,  
 4 which, in the year of the consolidation, has the highest levy subject to the  
 5 limitations of section 63-802, Idaho Code, had annexed the other district or  
 6 districts.

7           (3) An additional property tax of not more than six hundredths of one  
 8 percent (.06%) of the market value for assessment purposes on all taxable  
 9 property within the cemetery maintenance district may be levied by the ceme-  
 10 tery board for the sole and express purpose of acquisition of burial ground.  
 11 The proceeds from such levy may be accumulated by the board for future ac-  
 12 quisitions or pledged to the repayment of indebtedness incurred pursuant to  
 13 section 27-122, Idaho Code, provided that the proposal to levy such addi-  
 14 tional amount of property tax, or portion thereof, shall have been approved  
 15 by at least two-thirds (2/3) of the qualified electors residing in the ceme-  
 16 tery maintenance district at a previous election held in accordance with the  
 17 provisions of section 34-106, Idaho Code.

18           SECTION 4. That Section 27-125, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

20           27-125. ADOPTION OF BUDGET -- HEARING. A board shall adopt a budget and  
 21 any board with a proposed budget in excess of ~~twenty~~thirty-five hundred dol-  
 22 lars (\$~~2,500~~3,500) shall cause a public hearing to be held upon such budget  
 23 prior to certifying a tax levy to the board of county commissioners pursuant  
 24 to the requirements of section 63-802A, Idaho Code.

25           SECTION 5. That Section 27-126, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27           27-126. NOTICE OF HEARING -- PUBLICATION -- CONTENTS. Notice of the  
 28 budget hearing meetings shall be posted at least ten (10) full days prior to  
 29 the date of said meeting in at least one (1) conspicuous place in each ceme-  
 30 tery maintenance district to be determined by the board. A copy of such no-  
 31 tice shall also be published in a daily or weekly newspaper published within  
 32 such cemetery maintenance district, in one (1) issue thereof, during such  
 33 ten (10) day period. The place, hour and day of such hearing shall be spec-  
 34 ified in said notice, as well as the place where such budget may be examined  
 35 prior to such hearing. A full and complete copy of such proposed budget shall  
 36 be published with and as a part of the publication of such notice of hearing  
 37 and on the district's official website if one exists. All hearings of the  
 38 district shall be open to the public and shall permit all persons an opportu-  
 39 nity to present oral and written testimony within reasonable time limits.

40           SECTION 6. That Chapter 1, Title 27, Idaho Code, be, and the same is  
 41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 42 ignated as Section 27-129, Idaho Code, and to read as follows:

43           27-129. CONSOLIDATION OF DISTRICT -- ELECTION. Any cemetery mainte-  
 44 nance district may consolidate with one (1) or more existing cemetery main-  
 45 tenance districts, provided that at least one (1) district in the proposed

1 consolidation contains less than one hundred fifty (150) registered elec-  
2 tors when consolidation is proposed, and that none of the districts are far-  
3 ther than ten (10) miles apart from any other district in the proposed con-  
4 solidation. Such a consolidation is only permitted subject to the following  
5 procedure and with the following effects:

6 (1) If, the board of any cemetery maintenance district determines that  
7 consolidation with one (1) or more other existing cemetery maintenance dis-  
8 tricts would be to the advantage of the district, the board will cause to be  
9 prepared an agreement for consolidation that will provide:

10 (a) The name of the proposed consolidated cemetery district;

11 (b) That all property of the districts to be consolidated will become  
12 the property of the consolidated district;

13 (c) That all debts of the districts to be consolidated shall become the  
14 debts of the consolidated district;

15 (d) That the existing commissioners of the districts to be consoli-  
16 dated shall be the commissioners of the consolidated district until  
17 the next election, said election to be held pursuant to the terms of  
18 section 27-111, Idaho Code, at which three (3) commissioners shall be  
19 elected, unless the agreement of consolidation establishes a five (5)  
20 member board, in which case five (5) commissioners shall be elected. If  
21 the board consists of three (3) members, commissioners from cemetery  
22 subdistricts one (1) and two (2) shall be elected for terms of four (4)  
23 years, and the commissioner from cemetery subdistrict three (3) shall  
24 be elected for a term of two (2) years. If the board consists of five (5)  
25 commissioners, the commissioners from cemetery subdistricts one (1),  
26 three (3) and five (5) shall be elected for terms of four (4) years, and  
27 the commissioners from cemetery subdistricts two (2) and four (4) shall  
28 be elected for an initial term of two (2) years. Thereafter, the term of  
29 all commissioners shall be four (4) years; and

30 (e) At least one (1) public hearing shall be held by the boards of ceme-  
31 tery district commissioners prior to the election.

32 (2) After approval of the agreement by each of the cemetery maintenance  
33 district boards, such consolidation must then be presented to the electors  
34 of the cemetery districts for ratification in order to take effect. An  
35 election ratifying an agreement consolidating cemetery maintenance dis-  
36 tricts must be held in an even-numbered year on the dates provided in section  
37 34-106(1) (a) and (b), Idaho Code. The board of each district involved in the  
38 proposed consolidation must approve the agreement at least eighty (80) days  
39 before such an election and the county clerk where each district is located  
40 must be notified of the agreement of consolidation at least eighty (80) days  
41 before such an election.

42 (3) The county clerk will provide personal notice of the election by  
43 mail to each elector of the district and notice of whether a levy rate would  
44 increase as a consequence of the proposed consolidation, detailing the levy  
45 rate that would be adopted by consolidation. The election will otherwise be  
46 conducted as provided in section 27-106, Idaho Code, except that the ques-  
47 tion will be "Consolidation of . . . . cemetery districts, yes," or "Consol-  
48 idation of . . . . cemetery districts, no," or words equivalent thereto. If  
49 more than one-half (1/2) of the votes cast for each of the affected districts  
50 are yes, the agreement will become effective. If more than one-half (1/2) of

1 the votes cast in either of the affected districts are no, the agreement will  
2 be void and of no effect.

3 (4) Upon the agreement of consolidation becoming effective, the board  
4 of the consolidated cemetery district will file a certified copy of the  
5 agreement with the county recorder and comply with the provisions of section  
6 63-215, Idaho Code. The consolidated district will thereafter have the same  
7 rights and obligations as any other district organized under the statutes of  
8 this state.

9 (5) When the agreement of consolidation is filed with the county  
10 recorder, the county commissioners will divide the cemetery maintenance  
11 district into as many subdistricts as are provided in the agreement of con-  
12 solidation. The subdistricts will be as nearly equal in population, area and  
13 mileage as practicable. The subdistricts will be used in the next election  
14 following consolidation and in elections thereafter as provided in subsec-  
15 tion (1) (d) of this section and section 27-111, Idaho Code.

16 (6) An agreement of consolidation will not take effect unless such con-  
17 solidation complies with the provisions of section 27-121(2), Idaho Code.