

## Idaho Constitution

### **Article III: Legislative Department**

#### **Section 1. Legislative Power & Enacting Clause & Referendum & Initiative.**

The legislative power of the state shall be vested in a senate and house of representatives. The enacting clause of every bill shall be as follows: "Be it enacted by the Legislature of the State of Idaho."

The people reserve to themselves the power to approve or reject at the polls any act or measure passed by the legislature. This power is known as the referendum, and legal voters may, under such conditions and in such manner as may be provided by acts of the legislature, demand a referendum vote on any act or measure passed by the legislature and cause the same to be submitted to a vote of the people for their approval or rejection.

The people reserve to themselves the power to propose laws, and enact the same at the polls independent of the legislature. This power is known as the initiative, and legal voters may, under such conditions and in such manner as may be provided by acts of the legislature, initiate any desired legislation and cause the same to be submitted to the vote of the people at a general election for their approval or rejection.

## Idaho Statutes

### **Title 34: Chapter 18**

#### **Initiative and Referendum Elections**

##### **34-1801. Statement of Legislative Intent and Legislative Purpose**

The legislature of the state of Idaho finds that there have been incidents of fraudulent and misleading practices in soliciting and obtaining signatures on initiative or referendum petitions, or both, that false signatures have been placed upon initiative or referendum petitions, or both, that difficulties have arisen in determining the identity of petition circulators and that substantial danger exists that such unlawful practices will or may continue in the future. In order to prevent and deter such behavior, the legislature determines that it is necessary to provide easy identity to the public of those persons who solicit or obtain signatures on initiative or referendum petitions, or both, and of those persons for whom they are soliciting and obtaining signatures and to inform the public concerning the solicitation and obtaining of such signatures. It is the purpose of the legislature in enacting this act to fulfill the foregoing statement of intent and remedy the foregoing practices.

##### **34-1801A. Petitions**

The following shall be substantially the form of petition for any law proposed by the initiative:

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

#### INITIATIVE PETITION

To the Honorable...., Secretary of State of the State of Idaho "We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law, to-wit (setting out full text of measure proposed) shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the.... day of...., A.D.,....., and each for himself says I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and post office are correctly written after my name.  
**(Here follow twenty numbered lines for signatures.)**

The petition for referendum on any act passed by the state legislature of the state of Idaho shall be in substantially the same form with appropriate title and changes, setting out in full the text of the act of the legislature to be referred to the people for their approval or rejection.

#### **34-1802. Initiative Petitions – Time for Gathering Signatures – Time for Submission of Signatures to the County Clerk – Time for Filing**

(1) Except as provided in section 34-1804, Idaho Code, petitions for an initiative shall be circulated and signatures obtained beginning upon the date that the petitioners receive the official ballot title from the secretary of state and extending eighteen (18) months from that date or April 30 of the year that an election on the initiative will be held, whichever occurs earlier. The last day for circulating petitions and obtaining signatures shall be the last day of April in the year an election on the initiative will be held.

(2) The person or persons or organization or organizations under whose authority the measure is to be initiated shall submit the petitions containing signatures to the county clerk for verification pursuant to the provisions of section 34-1807, Idaho Code. The signatures required shall be submitted to the county clerk not later than the close of business on the first day of May in the year an election on the initiative will be held, or eighteen (18) months from the date the petitioner receives the official ballot title from the secretary of state, whichever is earlier.

(3) The county clerk shall, within sixty (60) calendar days of the deadline for the submission of the signatures, verify the signatures contained in the petitions, but in no event shall the time extend beyond the last day of June in the year an election on the initiative will be held.

(4) Initiative petitions with the requisite number of signatures attached shall be filed with the secretary of state not less than four (4) months before the election at which they are to be voted upon.

#### **34-1803. Referendum Petitions – Time for Filing - When Election Held - Effective Date of Law**

Referendum petitions with the requisite number of signatures attached shall be filed with the secretary of state not more than sixty (60) days after the final adjournment of the session of the state legislature which passed on the bill on which the referendum is demanded. All elections on measures referred to the people of the state shall be had at the biennial regular election. Any measure so referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon, and not otherwise.

#### **34-1803B. Initiative and Referendum Petitions – Removal of Signatures**

(1) The signer of any initiative or referendum petition may remove his or her own name from the petition by crossing out, obliterating or otherwise defacing his or her own signature at any time prior to the time when the petition is presented to the county clerk for signature verification.

(2) The signer of any initiative or referendum petition may have his or her name removed from the petition at any time after presentation of the petition to the county clerk but prior to verification of the signature, by presenting or submitting to the county clerk a signed statement that the signer desires to have his name removed from the petition. The statement shall contain sufficient information to clearly identify the signer. The county clerk shall immediately strike the signer's name from the petition, and adjust the total of certified signatures on the petition accordingly. The statement shall be attached to, and become a part of the initiative or referendum petition.

#### **34-1804. Printing of Petition and Signature Sheets**

Before or at the time of beginning to circulate any petition for the referendum to the people on any act passed by the state legislature of the state of Idaho, or for any law proposed by the initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the secretary of state a copy of such petition duly signed by at least twenty (20) qualified electors of the state which shall be filed by said officer in his office, and who shall immediately transmit a copy of the petition to the attorney general for the issuance of the certificate of review as provided in section 34-1809, Idaho Code. All petitions for the initiative and for the referendum and sheets for signatures shall be printed on a good quality of bond or ledger paper in the form and manner as approved by the secretary of state. To every sheet of petitioners' signatures shall be attached a full and correct copy of the measure so proposed by initiative petition; but such petition may be filed by the secretary of state in numbered sections for convenience in handling. Every sheet of petitioners' signatures upon referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded, and may be filed in numbered sections in like manner as initiative petitions. Not more than twenty (20) signatures on one (1) sheet shall be counted. Each signature sheet shall contain signatures of qualified electors from only one (1) county.

**34-1805. Sponsors To Print Petition – Number of Signers Required**

After the form of the initiative or referendum petition has been approved by the secretary of state as in sections 34-1801A through 34-1822, Idaho Code, provided, the same shall be printed by the person or persons or organization or organizations under whose authority the measure is to be referred or initiated and circulated in the several counties of the state for the signatures of legal voters. Before such petitions shall be entitled to final filing and consideration by the secretary of state there shall be affixed thereto the signatures of legal voters equal in number to not less than six percent (6%) of the qualified electors of the state at the time of the last general election. Provided, that the petition must contain a number of signatures of qualified electors from each of twenty-two (22) counties equal to not less than six percent (6%) of the qualified electors at the time of the last general election in each of those twenty-two (22) counties.

**34-1806. Binding of Petition and Signature Sheets - Approved Measures To Be Printed With Session Laws**

When any such initiative or referendum petition shall be offered for filing the secretary of state shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum petitions. The secretary of state shall file and keep such petitions as official public records. The secretary of state shall cause every such measure so approved by the people to be printed with the general laws enacted by the next ensuing session of the state legislature with the date of the governor's proclamation declaring the same to have been approved by the people.

**34-1807. Circulation of Petitions - Verification of Petition and Signature Sheet - Comparison of Signatures With Registration Oaths and Records - Certain Petitions and Signatures Void**

Any person who circulates any petition for an initiative or referendum shall be a resident of the state of Idaho and at least eighteen (18) years of age. Each and every sheet of every such petition containing signatures shall be verified on the face thereof in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon, and as a part thereof:

State of Idaho,

ss.

County of \_\_\_\_\_

I, \_\_\_\_\_, being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, post-office address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of \_\_\_\_\_

Signed \_\_\_\_\_

Post-office address \_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
(Notary Seal) Notary Public \_\_\_\_\_  
Residing at \_\_\_\_\_

In addition to said affidavit the county clerk shall carefully examine said petitions and shall attach to the signature sheets a certificate to the secretary of state substantially as follows:

State of Idaho

ss.

County of \_\_\_\_\_

To the honorable \_\_\_\_\_, Secretary of State for the State of Idaho: I, \_\_\_\_\_, County Clerk of \_\_\_\_\_ County, hereby certify that \_\_\_\_\_ signatures on this petition are those of qualified electors.

Signed \_\_\_\_\_

County Clerk or Deputy.

(Seal of office)

The county clerk shall deliver the petition or any part thereof to the person from whom he received it with his certificate attached thereto as above provided. The forms herein given are not mandatory and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical error.

Any petition upon which signatures are obtained by a person not a resident of the state of Idaho and at least eighteen (18) years of age, shall be void. The definition of resident in section 34-107, Idaho Code, shall apply to the circulators of initiative and referendum petitions. In addition to (to) being a resident, a petition circulator shall be at least eighteen (18) years of age.

**34-1808. Filing of Petition - Mandate - Injunction**

If the secretary of state shall refuse to accept and file any petition for the initiative or for the referendum with the requisite number of signatures of qualified electors thereto attached, any citizen may apply, within ten (10) days after such refusal to the district court for a writ of mandamus to compel him to do so. If it shall be decided by the court that such petition is legally sufficient, the secretary of state shall then file it, with a certified copy of the judgment attached thereto, as of the date on which it was originally offered for filing in his office. On a showing that any petition filed is not legally sufficient, the court may enjoin the secretary of state and all other officers from certifying or printing on the official ballot for the ensuing election the ballot title and numbers of such measure. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. Either party may appeal to the Supreme Court within ten (10) days after a decision is rendered. The district court of the fourth judicial district of the state of Idaho in and for Ada County shall

have jurisdiction in all cases of measures to be submitted to the qualified electors of the state at large.

**34-1809. Review of Initiative and Referendum Measures by Attorney General - Certificate of Review Prerequisite to Assignment of Ballot Title - Ballot Title - Judicial Review**

After receiving a copy of the petition from the secretary of state as provided in section 34-1804, Idaho Code, the attorney general may confer with the petitioner and shall, within twenty (20) working days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revision or alteration of the measure as may be deemed necessary and appropriate. The recommendations of the attorney general shall be advisory only and the petitioner may accept or reject them in whole or in part. The attorney general shall issue a certificate of review to the secretary of state certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been communicated to the petitioner, and such certificate shall be issued whether or not the petitioner accepts such recommendations. The certificate of review shall be available for public inspection in the office of the secretary of state. Within fifteen (15) working days after the issuance of the certificate of review, the petitioner, if he desires to proceed with his sponsorship, shall file the measure, as herein provided, with the secretary of state for assignment of a ballot title and the secretary of state shall thereupon submit to the attorney general two (2) copies of the measure filed. Within ten (10) working days after receiving said copies the attorney general shall provide a ballot title therefor and return one of said copies to the secretary of state, together with the ballot title so prepared by him. A copy of the ballot title as prepared by the attorney general shall be furnished by the secretary of state with his approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred. Said ballot title shall be used and printed on the covers of the petition when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures. The ballot title shall contain (1) Distinctive short title in not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition. (2) A general title expressing in not more than two hundred (200) words the purpose of the measure. The ballot title shall be printed with the numbers of the measure on the official ballot. In making such ballot title the attorney general shall to the best of his ability give a true and impartial statement of the purpose of the measure and in such language that the ballot title shall not be intentionally an argument or likely to create prejudice either for or against the measure. Any person who is dissatisfied with the ballot title or the short title provided by the attorney general for any measure, may appeal from

his decision to the Supreme Court by petition, praying for a different title and setting forth the reason why the title prepared by the attorney general is insufficient or unfair. No appeal shall be allowed from the decision of the attorney general on a ballot title unless the same is taken within twenty (20) days after said ballot title is filed in the office of the secretary of state; provided however, that this section shall not prevent any later judicial proceeding to determine the sufficiency of such title, nor shall it prevent any judicial decision upon the sufficiency of such title. A copy of every such ballot title shall be served by the secretary of state upon the person offering or filing such initiative or referendum petition, or appeal. The service of such decision may be by mail or telegraph and shall be made forthwith when it is received from the attorney general by the secretary of state. Said Supreme Court shall thereupon examine said measure, hear argument, and in its decision thereon certify to the secretary of state a ballot title and a short title for the measure in accord with the intent of this section. The secretary of state shall print on the official ballot the title thus certified to him. Any qualified elector of the state of Idaho may, at any time after the attorney general has issued a certificate of review, bring an action in the Supreme Court to determine the constitutionality of any initiative.

**34-1810. Printing and Designation of Ballot Titles On Official Ballots**

The secretary of state, at the time he furnishes to the county clerks of the several counties certified copies of the names of candidates for state and district offices shall furnish to each of said county clerks a certified copy of the ballot titles and numbers of the several measures to be voted upon at the ensuing general election, and he shall use for each measure the ballot title designated in the manner herein provided. Such ballot title shall not resemble, so far as to probably create confusion, any such title previously filed for any measure to be submitted at that election. The secretary of state shall number the measures consecutively beginning with number (1), in the order in which the measures were finally filed with the secretary. The measures shall be designated on the ballot as a "Proposition One", "Proposition Two," et cetera.

**34-1811. Manner of Voting - Procedure When Conflicting Measures Approved**

The manner of voting upon measures submitted to the people shall be the same as is now or may be required and provided by law; no measure shall be adopted unless it shall receive an affirmative majority of the aggregate number of votes cast on such measure. If two (2) or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. If two (2) or more conflicting amendments to the constitution shall be approved by the people at the same election, the amendment which receives the greatest number of affirmative votes shall be paramount in

all particulars as to which there is a conflict, even though such amendment may not have received the greatest majority of affirmative votes.

#### **34-1812A. Arguments Concerning Initiative and Referendum Measures**

Any voter or group of voters may on or before July 20 prepare and file an argument, not to exceed five hundred (500) words, for or against any measure. Such argument shall not be accepted unless accompanied by the name and address or names and addresses of the person or persons submitting it, or, if submitted on behalf of an organization, the name and address of the organization and the names and addresses of at least two (2) of its principal officers.

If more than one (1) argument for or more than one (1) argument against any measure is filed within the time prescribed, the secretary of state shall select one (1) of the arguments for printing in the voters' pamphlets. In selecting the argument the secretary of state shall be required to give priority in the order named to the arguments of the following:

- (1) The proponent of the initiative or referendum petition.
- (2) Bona fide associations of citizens.
- (3) Individual voters.

#### **34-1812B. Submissions of Rebuttal Arguments**

When the secretary of state has received the arguments which will be printed in the voters' pamphlet, the secretary of state shall immediately send copies of the arguments in favor of the proposition to the authors of the arguments against and copies of the arguments against to the authors of the arguments in favor. The authors may prepare and submit rebuttal arguments not exceeding two hundred and fifty (250) words. The rebuttal arguments must be filed no later than August 1. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

#### **34-1812C. Voters' Pamphlet**

(1) Not later than September 25 before any regular general election at which an initiative or referendum measure is to be submitted to the people, the secretary of state shall cause to be printed a voters' pamphlet which shall contain the following:

- (a) A complete copy of the title and text of each measure with the number and form in which the ballot title thereof will be printed on the official ballot;
- (b) A copy of the arguments and rebuttals for and against each state measure.

(2) The secretary of state shall mail or distribute a copy of the voters' pamphlet to every household in the state. Sufficient copies of the voters' pamphlet shall also be sent to each county clerk. The county clerk and the secretary of state shall make copies of the voters' pamphlet available upon request.

(3) The voters' pamphlet shall be printed according to the following specifications:

(a) The pages of the pamphlet shall be not smaller than 6 x 9 inches in size;

(b) It shall be printed in clear readable type, no less than 10-point, except that the text of any measure may be set forth in no less than 7-point type;

(c) It shall be printed on a quality and weight of paper which in the judgment of the secretary of state best serves the voters;

(d) If the material described in subsections (a) and (b) of this section is combined in a single publication with constitutional amendments, the entire publication shall be treated as a legal notice.

#### **34-1813. Counting, Canvassing, and Return of Votes**

The votes on measures and questions shall be counted, canvassed and returned by the regular boards of judges, clerks and officers, as votes for candidates are counted, canvassed and returned, and the abstract made by the several county auditors of votes on measures shall be returned to the secretary of state on separate abstract sheets in the manner provided for abstract of votes for state and county officers. It shall be the duty of the secretary of state, in the presence of the governor, to proceed within thirty (30) days after the election, and sooner if the returns be all received, to canvass the votes given for each measure, and the governor shall forthwith issue his proclamation, giving the whole number of votes cast in the state for and against such measure and question, and declaring such measures as are approved by a majority of those voted thereon to be in full force and effect as the law of the state of Idaho from the date of said proclamation; provided, that if two (2) or more measures shall be approved at said election which are known to conflict with each other or to contain conflicting provisions he shall also proclaim which is paramount in accordance with the provisions of sections 34-1801--34-1822.

#### **34-1814. Who May Sign Petition – Effect of Wrongful Signing – Penalty for Wrongful Signing**

Every person who is a qualified elector of the state of Idaho may sign a petition for the referendum or for the initiative for any measure which he is legally entitled to vote upon. Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of this state, or any officer or person willfully violating any provision of this statute, shall, upon conviction thereof be punished by a fine not exceeding five thousand dollars (\$5,000) or by imprisonment in the penitentiary not exceeding two (2) years, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had. Any such wrongful signatures are null and void and shall not be counted as a qualified signature. Any person circulating a petition, who knows, or who in the exercise of reasonable care should know, that a signature is forged and who shall thereafter fail to strike through and

thereby void such signature, and any person in a position of supervision of such person who suffers or permits a forged signature to remain on a petition shall pay a fine of not less than one thousand dollars (\$1,000) for each such signature.

**34-1815. False Statements Spoken or Written Concerning Petition Unlawful - Failure to Disclose Material Provisions**

It shall be unlawful for any person to willfully or knowingly circulate, publish or exhibit any false statement or representation, whether spoken or written, or to fail to disclose any material provision in a petition, concerning the contents, purport or effect of any petition mentioned in sections 34-1801A through 34-1822, Idaho Code, for the purpose of obtaining any signature to any such petition, or for the purpose of persuading any person to sign any such petition. It shall be unlawful for any person to solicit or obtain any signature on a petition without first showing the signer both the short title and the general title as defined in section 34-1809, Idaho Code, so that the signer has an opportunity to read them before signing the petition.

Any signature obtained without compliance with this section is null and void.

**34-1816. Filing Petition With False Signatures Unlawful**

It shall be unlawful for any person to file in the office of any officer provided by law to receive such filing any petition mentioned in sections 34-1801--34-1822, to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto.

**34-1817. Circulating Petition With False, Forged or Fictitious Names Unlawful**

It shall be unlawful for any person to circulate or cause to be circulated any petition mentioned in sections 34-1801--34-1822, knowing the same to contain false, forged or fictitious names.

**34-1818. False Affidavit by Any Person Unlawful**

It shall be unlawful for any person to make any false affidavit concerning any petition mentioned in sections 34-1801--34-1822, or the signatures appended thereto.

**34-1819. False Return, Certification or Affidavit by Public Official Unlawful.**

It shall be unlawful for any public official or employee knowingly to make any false return, certification or affidavit concerning any petition mentioned in sections 34-1801--34-1822, or the signatures appended thereto.

**34-1820. Signing More Than Once or When Not Qualified Unlawful**

It shall be unlawful for any person to knowingly sign his own name more than once to any petition mentioned in sections 34-1801--34-1822, or to

sign his name to any such petition knowing himself at the time of such signing not to be qualified to sign the same.

**34-1821. Felonious Acts Enumerated**

It shall be a felony for any person to offer, propose or threaten to do any act mentioned in this section of or concerning any petition mentioned in sections 34-1801--34-1822, for any pecuniary reward or consideration: (a) To offer, propose, threaten or attempt to sell, hinder or delay any petition or any part thereof or of any signatures thereon mentioned in sections 34-1801--34-1822; (b) To offer, propose, or threaten to desist, for a valuable consideration, from beginning, promoting or circulating any petition mentioned in sections 34-1801--34-1822, or soliciting signatures to any such petition; (c) To offer, propose, attempt or threaten in any manner or form to use any petition or power of promotion or opposition in any manner or form for extortion, blackmail or secret or private intimidation of any person or business interest.

**34-1822. Penalty for Violations**

Any person, either as principal or agent, violating any of the provisions of sections 34-1801--34-1822 shall be punished upon conviction by imprisonment in the penitentiary or in the county jail not exceeding two (2) years, or by a fine not exceeding \$5000.00, or by both, excepting that imprisonment in the penitentiary and punishment by a fine shall be the only penalty for violation of any provision of section 34-1821.

**34-1823. Severability**

In the event that any part of chapter 18, title 34, Idaho Code, shall for any reason be determined void or unenforceable in any part thereof, the remainder thereof shall remain in full force and effect.