

**Fire Protection District Code  
Title 31, Chapter 14**

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**Supplemental Idaho Code Cited In the Fire Protection Code**

**October 16, 2006**

**Idaho State Fire Commissioner's Association**

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**CHAPTER 14**  
**FIRE PROTECTION DISTRICT**  
**Section Contents**

- 31-1401. Purpose and policy of law – Short title**
- 31-1402. Creation and organization of district**
- 31-1403. Petition**
- 31-1404. Notice of hearing**
- 31-1405. Notice of election**
- 31-1406. Election – Qualification of electors -- Canvass**
- 31-1407. Canvass by board of commissioners – Validity of organization**
- 31-1408. Fire protection board – Appointment of commissioners -- Oath**
- 31-1409. Residence Qualifications of commissioners – Term of office – Vacancies**
- 31-1410. Election of Commissioners**
- 31-1410A. Decision to increase the size of the board**
- 31-1411. Annexation of territory in the same county – Petition – Hearing – Order – Certification to county commissioners – Alternate procedure – Election – Petition to annex property from the existing district and annex into another district**
- 31-1412. Annexation of territory in an adjoining county**
- 31-1413. Consolidation of districts – Hearing – Protest -- Election**
- 31-1414. Election for the consolidation of districts**
- 31-1415. Organization of board – Meetings – Officers –Official bonds**
- 31-1416. Fire Protection districts as governmental subdivisions of Idaho and political/corporate bodies**
- 31-1417. Corporate powers and duties of fire protection commissioners**
- 31-1418. Temporary inability of commissioner**
- 31-1419. Fire protection district has legal title to property**
- 31-1420. Procedure for sale, conveyance and disposition of property**
- 31-1421. Compensation and benefits – Expenses – Liability**
- 31-1422. Budget and hearing – Notice of hearing – Public inspection**
- 31-1423. Levy**
- 31-1424. Duties of county commissioners**
- 31-1425. Exemptions**
- 31-1426. Handling of district funds**
- 31-1427. Indebtedness prohibited -- Exceptions**
- 31-1428. Carry over – Fund Balance**
- 31-1429. Inclusion, annexation or withdrawal of area in cities**
- 31-1430. Cooperation and reciprocating firefighting forces and apparatus of districts and cities**
- 31-1431. Contracts between fire protection districts and a property owner outside the district**
- 31-1432. Construction of chapter**
- 31-1433. Continuation of existing districts – Validating acts of officers**
- 31-1434. Any dissolution**
- 31-1435. Separability**
- 31-1436. Nonliability of agency for delay in report of fire – Exception**
- 31-1437. Liability for indebtedness of fire protection districts after boundary changes**

**Additional Idaho Code Cited in Title 31, Chapter 14  
Table of Contents**

- 41-2604. May be sole surety on bonds**
- 45-507. Claim of lien**
- 55-705. By whom taken – Members of the armed forces**
- 59-401. Loyalty oath -- Form**
- 61-129. Public utility**
- 63-802. Limitation on budget requests – limitation on tax charges -- Exceptions**
- 63-812. Accounting and collection of property taxes**
- 63-1311. Fees for services**
- 63-1311A. Advertisement of and hearing on fee increases**
- 67-450B. Independent financial audits by governmental entities – Filing requirements**
- 67-2326. Joint action by public agencies -- Purpose**
- 67-2327. Definitions: “Public Agency” and “State”**
- 67-2328. Joint exercise of powers**
- 67-2329. Agreement filed with secretary of state – Constitutionality – Enforceable in courts – Reciprocity**
- 67-2330. Approval of appropriate state officer or agency**
- 67-2331. Funds – Property – Personnel -- Services**
- 67-2332. Interagency contracts**
- 67-2333. Powers of agencies not increased or diminished**
- 67-2334. Definition: “Volunteer”**
- 67-2335. Acceptance of volunteers -- Expenses**
- 67-2336. Qualifications of volunteers**
- 67-2337. Extraterritorial authority of peace officers**
- 67-2338. Extraterritorial benefits of public officers**
- 67-2339. Mutual aid by state agencies**
- 67-2340. Formation of public policy at open meetings**
- 67-2341. Open public meetings -- Definitions**
- 67-2342. Governing bodies – Requirement for open public meetings**
- 67-2343. Notice of meetings**
- 67-2344. Written minutes of meetings**
- 67-2345. Executive sessions – When authorized**
- 67-2346. Open legislative meetings required**
- 67-2347. Violations**
- 37-6511. Zoning Ordinance**

**FIRE PROTECTION DISTRICT**  
**Title 31 Chapter 14**

**31-1401 Purpose and policy of law -- Short title.**

The protection of property against fire and the preservation of life, and enforcement of any of the fire codes and other rules that are adopted by the state fire marshal pursuant to chapter 2, title 41, Idaho Code, are hereby declared to be a public benefit, use and purpose. Any portion of a county not included in any other fire protection district may be organized into a fire protection district under the provisions of this chapter. All taxable property within any fire protection district created under the provisions of this chapter is and shall be benefited ratably in proportion to assessed valuation by the creation and maintenance of such district, and all taxable property within any such district shall be assessed equally in proportion to its assessed valuation for the purpose of and in accordance with the provisions of this chapter. This chapter shall be known as the "Fire Protection District Law," and whenever cited, enumerated, referred to or amended, may be designated as the "Fire Protection District Law," adding when necessary the code section number.

**31-1402. Creation and organization of district.**

(1) Whenever twenty-five (25) or more of the holders of title, or evidence of title, to lands aggregating not less than one thousand (1,000) acres of contiguous territory, or consisting of contiguous territory of less extent but having market value for assessment purposes of at least five hundred thousand dollars (\$500,000) at the last preceding county assessment, desire to provide for the organization of the same as a fire protection district, none of their lands being included within the boundaries of an already created and organized fire protection district under the terms of this chapter, a district may be created and organized as provided in this chapter.

(2) All creations and organizations of fire protection districts and annexations to existing fire protection districts during the twelve (12) month period preceding the effective date of this act shall be deemed to be in full compliance with all applicable laws regardless of prior interpretations.

**31-1403. Petition.**

(1) A petition shall first be presented to the board of county commissioners and filed with the clerk of the board of commissioners of each county in which the proposed fire protection district is to be situated, signed by the number of holders of title, or evidence of title specified in section 31-1402, Idaho Code, which petition shall plainly and clearly designate the boundaries of the proposed fire protection district, and shall state the name of the proposed district, and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith shall, at all proper hours, be open to public inspection in the office of said clerk of the board of commissioners between the date of their said filing and the date of the election. The petition may be in one (1) paper or in several papers.

(2) Whenever a petition shall be filed, prior to the publication of notice of hearing pursuant to section 31-1404, Idaho Code, the petitioners shall deposit with the board of county commissioners a sum sufficient to defray the costs of publishing and election as provided by this chapter. In the event a fire protection district is organized, the petitioners shall be reimbursed the amount of their deposit from the first tax moneys collected by the district as provided by this chapter. The amount required to be paid under this subsection shall be determined by the board of county commissioners.

**31-1404. Notice of hearing.**

When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition, which time shall

not be less than four (4) nor more than six (6) weeks, from the date of the presentation and filing of such petition. A notice of the time of such hearing shall be published by said board, once each week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within each county in which said district is to be situated. Said notice shall state that a fire protection district is proposed to be organized, giving the proposed boundaries thereof, and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any testimony pertaining to the organization of such district, the proposed boundaries thereof or the including or excluding of any real property therein or therefrom. After hearing and considering any and all testimony, if any such be interposed, the county commissioners shall thereupon make an order thereon either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided by this chapter, and a map showing the boundaries of such proposed district as finally fixed and determined by the board of county commissioners shall be prepared and filed in the office of the clerk of said board.

If the district is to be situated in two (2) or more counties, each board of county commissioners shall coordinate the hearing date and the publications of notice so that only one (1) hearing need be held. Unless otherwise agreed to by each board of county commissioners involved, the hearing shall be held in the county with the largest area to be included within the district, and the boards of county commissioners are hereby specifically authorized to act in a joint manner for such purposes.

### **31-1405. Notice of election.**

After the county commissioners have made their order finally fixing and determining the boundaries of the proposed district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed fire protection district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed fire protection district, and shall state the name of the proposed district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published first not less than fifteen (15) days prior to the election, and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words "... fire protection district, yes," or "... fire protection district, no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district.

If the district is to be situated in two (2) or more counties, the boards of county commissioners shall provide that the election be held on the same day in each county.

### **31-1406. Election -- Qualification of electors -- Canvass.**

Such election shall be conducted in accordance with the general laws of the state, including the provisions of chapter 14, title 34, Idaho Code. The board of county commissioners shall establish as many election precincts within such proposed fire protection district as may be necessary, and define the boundaries thereof, which said precincts may thereafter be changed by the fire protection board of such district in case such district be organized. Each board of county commissioners shall also appoint three (3) judges of election for each such election precinct, who shall perform the same duties, as near as may be, as judges of election under the general laws of the state; and the result of such election shall be certified, and canvassed and declared by the board of county commissioners.

**31-1407. Canvass by board of commissioners -- Validity of organization.**

Immediately after any election for voting upon the organization of a fire protection district, the judges of said election shall forward the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall meet within ten (10) days after said returns are received and shall proceed to canvass the votes cast at such election, and if, upon canvass, it shall appear that one-half (1/2) or more of said votes are "... fire protection district, no," then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void. If, however, it shall appear upon such canvass, that more than one-half (1/2) of the votes cast are "... fire protection district, yes," the said board shall, by order entered on its minutes, declare such territory duly organized as a fire protection district under the name designated in the petition. After the election, the validity of the proceedings hereunder shall not be affected by any defect in the petition or in the number of qualifications of the signers thereof, and in no event shall any action be commenced or maintained or defense made affecting the validity of such organization after six (6) months from and after the making and entering of the order provided for in this section. Such board shall cause one (1) copy of such order, duly certified, to be filed for record in the office of the county recorder of the county in which said district is situated and shall transmit to the governor one (1) certified copy thereof.

From and after the date of such filing of said order of the board of county commissioners declaring such territory duly organized as a fire protection district, the organization of such district shall be complete.

If the district is to be situated in two (2) or more counties, the boards of county commissioners shall coordinate the canvass of the votes cast and make one (1) joint announcement. If a majority of the votes cast in any county are against the formation of the district, such rejection shall void the organization of the district in all counties.

**31-1408. Fire protection board -- Appointment of commissioners -- Oath.**

(1) There shall be three (3) fire protection commissioners in each district, who shall constitute the fire protection board. The first fire protection commissioners of such fire protection district shall be appointed by the governor. The certificate of such appointment shall be made in triplicate; one (1) certificate shall be filed in the office of the county recorder of the county; one (1) with the clerk of the board of county commissioners, and one (1) with the assessor and tax collector of the county. Every fire protection commissioner and appointed officer shall take and subscribe the official oath, which oath shall be filed in the office of the board of fire protection commissioners. If the district is situated in two (2) or more counties, not more than two (2) of the fire protection district commissioners shall be from the same county, unless pursuant to section 31-1410A, Idaho Code, the board is comprised of five (5) members, in which event not more than three (3) of the commissioners shall be from the same county.

(2) The oath of office of fire protection commissioners and appointed officers shall be taken before the secretary or the president of the board of the fire district on the second Monday of January succeeding each general election. Provided however, in the event, for any reason, of an inability to appear for the taking of the oath, a duly elected fire protection commissioner may be sworn in and may subscribe to the oath wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths as prescribed in section 55-705, Idaho Code, and may take and subscribe the oath of office as provided for in section 59-401, Idaho Code, and the oath of office shall have the same force and effect as though it were taken before the secretary or the president of the fire district pursuant to this subsection.

**31-1409. Residence qualifications of commissioners -- Term of office -- Vacancies.**

(1) At the meeting of the board of county commissioners at which the fire protection district is declared organized, as provided by section 31-1407, Idaho Code, the county commissioners shall divide the fire protection district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Not more than one (1) of said commissioners shall be an elector of the same fire protection subdistrict. The first commissioners appointed by the governor shall serve until the next fire protection district election, at which their successors shall be elected. The term of office for fire protection commissioners shall commence on the second Monday of January succeeding each general election. Commissioners appointed and elected must be electors resident within the district for at least one (1) year.

(2) Any fire protection commissioner vacancy occurring, other than by the expiration of the term of office, shall be filled by the fire protection board. If a duly elected or appointed fire protection commissioner resigns, withdraws, becomes disqualified, refuses or becomes otherwise unable to perform the duties of office for longer than ninety (90) days, the board, on satisfactory proof of the vacancy, shall declare the office vacant. The board shall fill any vacancies within sixty (60) days of learning of the vacancy. When a vacancy occurs, the board shall direct the secretary to cause a notice of the vacancy to be published in at least one (1) issue of a newspaper of general circulation within the district. The notice shall include the date and time of the meeting when the board will vote to fill the vacancy, and the deadline for qualified elector residents interested in being appointed to the position to submit a written request for appointment to the board. Should the board fail to agree on an individual to fill the vacancy, it shall select the individual by a coin toss to be conducted at a fire protection board meeting. Candidates for the vacancy shall be invited by the board to attend the meeting and observe the coin toss. The candidate who wins the coin toss shall be appointed to fill the vacancy.

### **31-1410. Election of commissioners.**

(1) On the first Tuesday following the first Monday of November, following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Every year thereafter, one (1) commissioner shall be elected, except for the fourth year when no election of a fire commissioner shall occur unless a fire protection district has voted to increase the size of its board in accordance with section 31-1410A, Idaho Code. The board of fire protection commissioners shall have power to make such regulations for the conduct of such election as are consistent with the statutory provisions of chapter 14, title 34, Idaho Code. At their meeting next preceding such election, the board of fire protection commissioners shall divide the district into three (3) subdistricts as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Thereafter, at the January meeting of the board of fire protection commissioners preceding any regularly scheduled election, such subdistricts may be revised by the board when it deems it necessary due to significant shifts in population. Provided however, of the commissioners comprising the board, not more than one (1) commissioner shall be an elector of the same fire protection commissioners subdistrict. The revision of subdistricts shall not disqualify any elected commissioner from the completion of the term for which he or she has been duly elected. At the first election following organization of a fire protection district the commissioner from fire protection subdistrict one shall be elected to a term of one (1) year, the commissioner from subdistrict two shall be elected to a term of two (2) years, and the commissioner from fire protection subdistrict three shall be elected to a term of three (3) years; thereafter the term of office of all commissioners shall be four (4) years. Such elections and all other elections held under this law, shall be held in conformity with the general laws of the state including chapter 14, title 34, Idaho Code.

(2) Upon the unanimous agreement of the existing board of commissioners, a fire protection district whose terms and elections were established by prior law may elect to convert to the election of commissioners as provided in subsection (1) of this section. A fire district may adopt any conversion

schedule reflecting the intent of the schedule provided in subsection (1) of this section, so long as one (1) commissioner is elected each year, except for the fourth year when no election shall be held. The conversion schedule shall not result in the extension of the term of office of any commissioner serving at the time of the conversion.

(3) In any election for fire protection district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of the fire protection district shall declare such candidate elected as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

The results of any election for fire protection district commissioner shall be certified to the county clerk of the county or counties in which the district is located.

### **31-1410A. Decision to increase the size of the board.**

Subsequent to the creation of a fire protection district and the appointment of the first board of fire protection commissioners, the fire protection board may, by a majority vote of all of the fire protection district board members elect to increase the size of the board to five (5) members.

If the board of fire protection commissioners elects to expand the board to five (5) members, the existing board members shall subdivide the district into five (5) subdivisions as nearly equal in population, area and mileage as practicable to be known as subdistricts one, two, three, four and five.

At the first election following the decision of the board of fire protection commissioners to expand the board from three (3) to five (5) members, five (5) commissioners shall be elected. The commissioners from fire protection subdistrict one shall be elected for a term of one (1) year; the commissioner from subdistrict two for two (2) years; the commissioner from subdistrict three for three (3) years; and the commissioners from subdistricts four and five shall be elected for terms of four (4) years. Thereafter, the term of all commissioners shall be four (4) years.

A fire district which, prior to the effective date of this section, had elected to expand a board from three (3) to five (5) members shall, prior to the next election of the district, adopt a transition schedule as nearly reflecting the schedule provided in this section as possible so that one (1) commissioner is elected each year except that in one (1) year, two (2) commissioners are elected.

### **31-1411. Annexation of territory in same county -- Petition -- Hearing -- Order -- Certification to county commissioners -- Alternate procedure -- Election -- Petition to de annex property from existing district and annex into another district.**

After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district. Territory that is not contained in an existing fire district, and is not immediately adjoining the boundaries of the fire district into which annexation is sought, may be annexed into the district provided the territory consists of not less than forty (40) contiguous acres. At least seventy-five percent (75%) or more of the owners or contract purchasers of the land sought to be annexed shall petition the fire protection board and request annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, or upon the written consent of the petitioner within one hundred eighty (180) days, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said

petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that more than twenty-five percent (25%) of the owners or contract purchasers of the land sought to be annexed do not join in said petition, and the board determines by resolution entered on the minutes of the board, that the annexation would be in the best interests of the district and that an election on the issue should be held, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken at an election held as provided in section 31-1405, Idaho Code. The same procedure shall be adopted as provided in sections 31-1402 through 31-1406, Idaho Code.

If owners or contract purchasers of territory located within an existing fire protection district seek to petition to be annexed into another fire protection district, they must demonstrate that they are likely to receive an improved response to requests for services from the other fire protection district and obtain written approval of the board of the fire protection district within which the territory is already located. The written approval must be attached to their petition to annex. The procedure for the annexation petition shall be the same as otherwise provided in this section.

### **31-1412. Annexation of territory in adjoining county.**

After the organization of a fire protection district, additional territory, contiguous or noncontiguous thereto and located wholly within an adjoining county, may be added to the district and become a part thereof as hereinafter provided in this section. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The proceedings for annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

(1) Such proceeding may be initiated by two (2) or more of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres.

(2) A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the fire protection board of the fire protection district into which petitioners seek to be annexed. The petition shall accurately describe the boundaries of the territory and name and describe the fire protection district to which annexation is sought. The petition shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. The fire protection board shall follow the notice and public hearing requirements contained in section 31-1411, Idaho Code, and if it approves of the annexation proposal, it will issue a written resolution consenting to the proposed annexation. If the fire protection board issues such a resolution, the petitioners shall proceed in accordance with the steps outlined in this section.

(3) A petition, such as is required by section 31-1403, Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of the territory, and name and describe the fire protection district to which annexation is sought, shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. The petition must be accompanied by a certified copy of the resolution of the board of fire protection commissioners consenting to the annexation.

(4) The notice of hearing on the petition shall state that certain territory described in the petition, is proposed to be annexed to a fire protection district named in the petition and that any taxpayer within

the boundaries of the territory proposed to be annexed may offer objections at the time and place specified. The order entered by the local board of county commissioners on the petition shall, if the petition be granted, fix the boundaries of the annexed territory and direct that a map of it be prepared under the direction of the clerk of the board, and certified copies of the order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

(5) An election shall be conducted by the county clerk or elections office in the county where the land sought to be annexed is situated, subject to the provisions of section 34-106, Idaho Code, in the territory proposed to be annexed for the purpose of voting upon the annexation and the notice shall accurately describe the boundaries of the territory proposed to be annexed, shall state the name of the district to which annexation is sought, and that a map showing the boundaries of the district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X).

(6) The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from the canvass that more than one-half (1/2) of the voters are in favor of the annexation, the board shall, by order entered on its minutes, declare the territory a part of the fire protection district to which annexation is sought, and a certified copy of the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which the original district is situated. A certified copy of the order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. At the first meeting of the board of fire protection commissioners following the annexation of property from another county, the board shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The remaining commissioners on the board shall appoint, as necessary, persons to fill vacancies created as a result of annexation pursuant to the provisions of section 31-1409, Idaho Code. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to the levy.

### **31-1413. Consolidation of districts -- Hearing -- Protest -- Election.**

Any fire protection district may consolidate with one (1) or more existing fire protection districts subject to the following procedure, or pursuant to an election for consolidation as provided in section 31-1414, Idaho Code, and with the following effects:

(1) If, in the opinion of the board of any fire protection district, it would be to the advantage of said district to consolidate with one (1) or more other existing fire protection districts, the said board shall cause to be prepared an agreement for consolidation which shall among other things provide:

(a) The name of the proposed consolidated fire protection district.

(b) That all property of the districts to be consolidated shall become the property

of the consolidated district.

- (c) That all debts of the districts to be consolidated shall become the debts of the consolidated district.
- (d) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 31-1410, Idaho Code, at which three (3) commissioners shall be elected, unless the agreement of consolidation establishes a five (5) member board, in which case five (5) commissioners shall be elected. If the board consists of three (3) members, commissioners from fire protection subdistricts one and two shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, commissioners from fire protection subdistricts one, three and five shall be elected for terms of four (4) years, and the commissioners from fire protection subdistricts two and four shall be elected for an initial term of two (2) years. Thereafter the term of all commissioners shall be four (4) years.
- (e) That the employees of the consolidated fire protection district shall be selected from the employees of the fire protection districts being consolidated, which employees shall retain the seniority rights under their existing employment contracts.

(2) After approval of the agreement of consolidation by each of the fire protection district boards involved, the boards of commissioners of each fire protection district shall hold a hearing not less than ten (10) or more than thirty (30) days thereafter, and shall cause notice of the hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district not less than five (5) days prior to the hearing. Any person supporting or objecting to the petition shall be heard at the hearing, if in attendance, and at the close of the hearing the board shall approve or reject the agreement of consolidation. If each board approves the agreement of consolidation, the agreement shall become effective and the consolidation of the district complete thirty (30) days after the approval unless within the thirty (30) days a petition signed by twenty-five percent (25%) of the qualified electors of one (1) of the fire protection districts objecting to the consolidation be filed with the secretary of the district. In the event of an objection, election shall be held as provided in section 31-1405, Idaho Code, except that the question shall be "consolidation of .... fire protection district, yes," or "consolidation of .... fire protection district, no," or words equivalent thereto. If more than one-half (1/2) of the votes cast are yes, the agreement shall become effective. If more than one-half (1/2) of the votes cast are no, the agreement shall be void and of no effect; and no new consolidation shall be proposed for at least six (6) months following the date of the consolidation election.

(3) Upon the agreement of consolidation becoming effective, the board of the consolidated fire protection district shall file a certified copy of the agreement with the county recorder of each county in which such district is situated, and shall comply with the provisions of section 63-215, Idaho Code. The consolidated district shall thereafter have the same rights and obligations as any other fire protection district organized under the statutes of this state.

### **31-1414. Election for the consolidation of districts.**

(1) Any two (2) or more fire districts may, in the discretion of the fire district commissioners, or shall, upon a petition signed by ten percent (10%) or more of the electors in the last general election residing in each of the fire protection districts proposed for consolidation, conduct an election in the manner provided in section 31-1405, Idaho Code, at which the following question shall be submitted to

the electorate: "Shall ..... fire protection districts be consolidated?" or words equivalent thereto. At least one (1) public hearing shall be held by the boards of fire district commissioners prior to the election. If a majority of the votes cast in each district proposed for consolidation are in favor of consolidation, the districts shall be deemed consolidated and an agreement of consolidation in conformity with the provisions of section 31-1413, Idaho Code, shall be entered into by the fire protection district boards involved, except that an agreement of consolidation entered into pursuant to an election as provided in this section shall not thereafter be subject to an election upon objection as provided in subsection (2) of section 31-1413, Idaho Code.

(2) If two (2) districts are proposed for consolidation and less than a majority of the votes cast in any one (1) of the districts are in favor of the consolidation, the consolidation shall not become effective. If more than two (2) districts are proposed for consolidation, the consolidation may proceed with respect to those districts in which a majority of the votes cast are in favor of the consolidation.

### **31-1415. Organization of board -- Meetings -- Officers -- Official bonds.**

Immediately after qualifying, the board of fire protection commissioners shall meet and organize as a board, and at that time, and whenever thereafter vacancies in the respective offices may occur, they shall elect a president from their number, and shall appoint a secretary and treasurer who may also be from their number, all of whom shall hold office during the pleasure of the board, or for terms fixed by the board. The offices of secretary and treasurer may be filled by the same person. Certified copies of all such appointments, under the hand of each of the commissioners, shall be forthwith filed with the clerk of the board of county commissioners and with the tax collector of the county.

As soon as practicable after the organization of the first board of fire protection commissioners, and thereafter when deemed expedient or necessary, such board shall designate a day and hour on which regular meetings shall be held and a place for the holding thereof, which shall be within the district. Regular meetings shall be held at least quarterly. The minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. Such list shall be acted on by the board. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business. All fire protection districts shall meet the financial audit filing requirements as provided in section 67-450B, Idaho Code. All meetings of fire protection boards shall be noticed and run in accordance with the open meeting law provided for in sections 67-2340 through 67-2347, Idaho Code, inclusive. All records of fire protection districts shall be available to the public in accordance with the provisions of public records law as provided for in chapter 3, title 9, Idaho Code.

The officers of the district shall take and file with the secretary, an oath for faithful performance of the duties of the respective offices. The treasurer shall on his appointment execute and file with the secretary an official bond in compliance with section 41-2604, Idaho Code, in such an amount as may be fixed by the fire protection board but in no case less than ten thousand dollars (\$10,000).

### **31-1416. Fire protection districts are governmental subdivisions of Idaho and bodies politic and corporate.**

Every fire protection district upon being organized as provided by this chapter shall be a governmental subdivision of the state of Idaho and a body politic and corporate, and as such has the power specified in this chapter. Its powers can be exercised only by the fire protection board or by agents and officers acting under their authority, or authority of law. The name of the district designated in the order of the board of county commissioners declaring the territory duly organized as a fire protection district, shall be the corporate name of such district, and it must be known and designated thereby in all actions and proceedings touching its corporate right, property and duties.

### **31-1417. Corporate powers and duties of board of fire protection commissioners.**

A board of fire protection commissioners shall have discretionary powers to manage and conduct the business and affairs of the district. The discretionary powers shall include, but not be limited to, the following:

- (1) To sue and be sued.
- (2) To purchase, hold, sell and convey real property, make such contracts, and purchase, hold, sell and dispose of such personal property as may be necessary or convenient for the purposes of this chapter.
- (3) To levy and apply such taxes for purposes under its exclusive jurisdiction as are authorized by law, and to approve the annual district budget by resolution of the board.
- (4) To make and execute all necessary contracts.
- (5) To adopt such rules and resolutions as may be necessary to carry out their duties and responsibilities.
- (6) To hire, pay, promote, discipline and terminate district employees, contractors and agents, or delegate such powers.
- (7) To set compensation and benefit levels for employees, commissioners, contractors and agents.
- (8) To appoint members of district appeals boards and investigatory boards for the purpose of handling personnel matters or disputes concerning fire code enforcement issues, and to appoint other boards or committees that commissioners deem necessary for carrying out the purposes and policies of this chapter.
- (9) To enforce the fire code and rules adopted by the state fire marshal pursuant to chapter 2, title 41, Idaho Code.
- (10) To charge and collect reasonable fees for services provided to residents of the fire protection district or city, in accordance with the provisions of sections 63-1311 and 63-1311A, Idaho Code.

### **31-1418. Temporary inability of commissioner.**

Whenever, for any reason, any member of the board of fire protection district commissioners submits to the board a signed written notice stating that the commissioner is temporarily unable to perform the duties of the office for a period of at least ninety (90) days, the other members of the board shall appoint a suitable person to perform such duties temporarily as an acting officer as provided herein, until the incumbent of the office shall be able to resume the performance of his duties, or a vacancy occurs in such office.

Each member of the board of a fire protection district shall designate two (2) temporary interim successors to his powers and duties and specify their order of succession. Each member shall review and, as necessary, revise the designations of temporary interim successors so there are always two (2) qualified temporary interim successors. The designation of a temporary interim successor shall become effective when the member making the designation files with the secretary of the board of the fire protection district the name, address and rank of the successors in order of succession.

When a member of the board of fire protection district commissioners is temporarily unable to perform the duties of office, the other members of the board shall appoint a temporary interim successor highest in order of succession who is available. The interim successor, except for the power and duty to appoint temporary interim successors, shall exercise the power and assume the duties of the member of the board of fire protection district commissioners. No person shall be designated or serve as a temporary interim successor unless he is qualified to hold the office of a member of the board of fire protection district commissioners, to whose powers and duties he is designated to succeed under the constitution

and laws of the state of Idaho. The order of appointment of a temporary interim successor shall be recorded in the official proceedings of the board.

**31-1419. Fire protection district has legal title to property.**

The legal title to all property acquired under the provisions of this chapter shall immediately and by operation of law, vest in such fire protection district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this chapter. Said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, possess, sell, convey and dispose of said property, whether real or personal, as in this chapter provided; and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this chapter or acquired in pursuance thereof. In all courts, actions, suits or proceedings, the said board may sue, appear and defend, in person or by attorneys, and in the name of such fire protection district.

**31-1420. Procedure for sale, conveyance and disposition of property.**

Real or personal property of a fire protection district may be sold, conveyed, and disposed of by its board of commissioners whenever the board finds and by resolution declares that the district no longer has use therefor, subject to the following procedure:

(1) If in the opinion of the board, any such personal property does not exceed ten thousand dollars (\$10,000) in value, the same may be sold without independent appraisal, notice, or competitive bids.

(2) All such real property, and any such personal property that the board determines to exceed ten thousand dollars (\$10,000) in value, shall be appraised by a certified appraiser who shall be selected by the board. It may then be sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice. If the property cannot be sold for the appraised value after reasonable efforts have been made, the board may then sell the property for adequate and valuable consideration as determined by the board.

(3) Due notice of sale shall be accomplished if the notice shall describe the property to be sold (legal description, if real property), state the appraised value thereof (by separate items, if so appraised), and specify the time, place, and conditions of sale.

(4) Said notice shall be published in a newspaper having general circulation in the district at least twice, the first publication thereof to be not less than fifteen (15) days preceding the day of sale.

(5) If such property is sold on terms, the board may contract for the sale of the same for a period of years not exceeding ten (10) years, with an annual rate of interest on all deferred payments not to exceed twelve percent (12%) per annum. The title to all property sold on contract shall be retained in the name of the district until full payment has been made by the purchaser. Any property sold by the board under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as though the purchaser held a record title to the property so sold. The board shall have authority to cancel any contract of sale, pursuant to law, if the purchaser shall fail to comply with any of the terms of such contract, and retain all payments paid thereon. The board may by agreement with the purchaser modify or extend any of the terms of any contracts of sale, but the total period of years shall not exceed ten (10) years.

(6) Upon final payment pursuant to the sale of such real property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate deed to the purchaser,

and upon the accomplishment of the sale of such personal property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate bill of sale to the purchaser.

(7) In addition to any other powers granted by law, the board of fire commissioners may, at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision, or taxing district of the state of Idaho, with or without compensation, any real or personal property or any interest in such property owned by the fire district or acquired by tax deed, after adoption of a resolution that the grant or exchange of property is in the public interest. Such resolution may be made at any regularly or specially scheduled meeting of the board. Notice of such grant or exchange shall be made in the same manner as set forth in subsections (3) and (4) of this section. The fire protection district's execution and delivery of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the fire protection district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance.

**31-1421. Compensation and benefits -- Expenses -- Liability.**

(1) Fire district commissioners may receive reasonable compensation for their services as commissioners. The fire protection board shall fix commissioner benefits and compensation for the fiscal year. Compensation for performing district business shall not exceed seventy-five dollars (\$75.00) per day. District business shall include time spent preparing for and attending regular and special board meetings and meetings of committees established by the board. Additional compensation, if approved by a majority of the fire protection board, may be calculated for commissioners who attend county or state agency meetings, educational classes, seminars, and other miscellaneous district business. Commissioners may also participate in the district's employee benefit package in the same manner as employees or volunteers. Any proposed commissioner benefits and annual compensation shall be published as a separate line item in the annual budget of the fire protection district.

(2) Actual expenses of commissioners for travel, and other district expenses approved by the board, shall be paid to the commissioners in addition to their annual compensation and benefits. The payment for expenses shall be paid from the funds of the fire protection district on either a per diem basis or upon the presentation of itemized receipts to the treasurer.

(3) The board shall fix the annual compensation and benefits to be paid to the other officers, agents and employees of the fire district, which shall be paid out of the treasury of the fire district.

(4) The district shall be liable and responsible for the actions and omissions of the commissioners, officers, agents and employees of the district, when the commissioners, officers, agents and employees are performing their duties within the course and scope of their employment with the district, and on behalf of the district.

**31-1422. Budget and hearing -- Notice of hearing -- Public inspection.**

(1) The fire protection district board shall adopt a budget and shall cause a public hearing to be held upon such budget, prior to certifying a tax levy to the board of county commissioners of each county within the district, or having a portion of its territory within the district.

(2) Notice of the budget hearing meeting shall be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in each fire protection district to be determined by the board; a copy of such notice shall also be published in a daily or weekly newspaper published within such district, in one (1) issue thereof, during such ten (10) day period. The place, hour and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A full and complete copy of such proposed budget shall be published with and as a part of the publication of such notice of hearing.

(3) Such budget shall be available for public inspection from and after the date of the posting of notices of hearing as in this section provided, at such place and during such business hours as the board may direct.

(4) A quorum of the board shall attend such hearing and explain the proposed budget and hear any and all objections thereto.

(5) The fiscal year of a fire protection district shall commence either on the first day of October of each calendar year, or on the first day of January of each calendar year, as established by resolution of the fire protection district board of commissioners.

### **31-1423. Levy.**

(1) Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this chapter, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this chapter and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor, county assessor and state board of equalization certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-812, Idaho Code.

(2) If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district which, in the year of the consolidation, has the higher levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts. In addition, the consolidated district shall receive the benefit of foregone increases accumulated by the former districts under section 63-802(1)(a), Idaho Code.

### **31-1424. Duties of county commissioners.**

The board of county commissioners, at the time of making the annual county levies, shall make a levy upon all the taxable property not exempt from taxation within each district within the county in the same amount as the levy made by the board of commissioners of each fire protection district, and shall certify such levy or levies to the county auditor, and said auditor shall extend such levy on the rolls of the county, as other county taxes are extended; such special taxes so levied, as aforesaid, shall constitute a lien upon the property so assessed and shall be due and payable at the same time and in all respects are to be collected in the same manner as the state and county taxes, except that the tax collector must keep a separate list thereof and must list said tax in his receipt to the taxpayers and must pay to the county treasurer as he pays other taxes, specify to the treasurer what taxes they are and take a separate receipt therefor, and keep separate accounts thereof.

### **31-1425. Exemptions.**

(1) All public utilities, as defined in section 61-129, Idaho Code, shall be exempt from taxation under the provisions of this chapter and shall not be entitled to the privileges or protection hereby provided without their consent in writing filed with the clerk of the board of county commissioners. Provided however, the board of fire protection commissioners, may enter into an agreement with a public utility for the purpose of affording the privileges or protection provided by the fire protection district to all, or such portion, of the property of the public utility as may be agreed upon between the parties and upon such terms and conditions as may be mutually agreed upon between the parties to the agreement.

(2) The board of county commissioners, upon application and recommendation of the board of fire protection commissioners, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

### **31-1426. Handling of district funds.**

(1) The tax receipts collected by the county as provided for in section 31-1424, Idaho Code, and other funds shall immediately be paid over by the county treasurer to the treasurer of the fire protection district, who shall deposit the same in a bank and be handled in the manner prescribed by the state depository law and all other funds received, by or on behalf of the district, shall be deposited by the treasurer to the credit of the district fund and shall be drawn only upon voucher and by check bearing the signature of the treasurer and at least one (1) commissioner, or in the event that the treasurer is unavailable, checks may be signed by two (2) commissioners. Provided however, upon written resolution of the board, checks may be signed by designated representatives who have been bonded in amounts deemed appropriate by the board.

(2) It is hereby made the duty of the treasurer of the fire protection district to keep account of the district's funds; to place to the credit of the district all moneys received by him from the collector of taxes or from any other officer charged with the collection of taxes as the proceeds of taxes levied by the fire protection board, or from any other sources, and of all other moneys belonging to the district and to pay over all moneys belonging to the district on legally drawn warrants or orders of the district officers entitled to draw the same.

(3) No checks or warrants shall be signed until it is determined that the payment has been legally authorized, that the money has been duly appropriated by the board, and that such appropriation has not been exhausted. No checks or warrants shall be drawn in excess of the moneys actually in the district treasury. Provided however, warrants may be issued in anticipation of a levy except as otherwise provided in this chapter. The district shall pay warrants presented for payment provided there is money in the treasury for that purpose.

(4) All warrants for the payment of an indebtedness of a fire protection district which are unpaid due to lack of funds shall bear interest at a rate to be fixed by the fire protection board from the date of the registering of such unpaid warrants with the treasurer. Provided however, that the dollar amount of the warrants shall not exceed the revenue provided for the year in which the indebtedness was incurred.

### **31-1427. Indebtedness prohibited -- Exceptions.**

The board of commissioners of a fire protection district organized pursuant to the provisions of this chapter shall have no power to incur any debt or liability, except to the extent for the purposes and in the manner hereinafter provided:

(1) In the first year after organization, the board of a district may, for the purpose of organization, to finance general preliminary expenses of the district or for any other purpose of the fire protection district law, and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to one cent (\$.01) on each one hundred dollars (\$100) of market value for assessment purposes of all real and personal property within the district.

(2) Whenever the board of commissioners of a fire protection district shall determine that the interest of said district and the public interest or necessity require incurring an indebtedness exceeding the

income and revenue provided for the year for the purposes of (a) acquiring, purchasing, constructing, improving and equipping lands, building sites and buildings together with the necessary appurtenant facilities and equipment and (b) acquiring and purchasing suitable equipment and apparatus necessary to provide fire protection, the board shall have the power and authority as hereinafter provided to issue general obligation coupon bonds not to exceed in the aggregate at any time two percent (2%) of market value for assessment purposes of the real and personal property in said district.

Whenever the board of a district shall deem it advisable to issue general obligation coupon bonds, the board shall provide for the issuance of such bonds by ordinance which shall specify and set forth all the purposes, objects and things required by section 57-203, Idaho Code, and make provision for the collection of an annual tax sufficient to (a) constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting said bonded indebtedness and (b) to pay the interest on such proposed bonds as it falls due.

The aforesaid ordinance shall also provide for holding an election, notice of which shall be given for thirty (30) days in a newspaper or newspapers of general circulation in the district. The election shall be conducted in the manner and form, the returns canvassed, and the qualifications of electors of the district voting or offering to vote shall be determined, as provided by the pertinent and applicable provisions of title 34, Idaho Code. The voting at such election must be by ballot and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of ..... dollars for the purpose stated in Ordinance No. ...." and "Against issuing bonds to the amount of ..... dollars for the purpose stated in Ordinance No. ...." If at such election two-thirds (2/3) of the qualified electors voting at such election, assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purposes, objects, and things provided in said Ordinance No. ...., such bonds shall be issued in the manner provided by chapter 2, title 57, Idaho Code, the municipal bond law of the state of Idaho.

Bonds issued pursuant to the provisions of this section and the income therefrom shall be exempt from taxation except transfer and estate taxes.

### **31-1428. Carry over -- Fund balance.**

The board of commissioners of a fire protection district may accumulate fund balances at the end of a fiscal year and carry over those fund balances into the ensuing fiscal year budget for equipping and maintaining the district. A "fund balance" is the excess of the assets of a fund over its liabilities and reserves.

### **31-1429. Inclusion, annexation or withdrawal of area in cities.**

Except as otherwise provided in section 50-224, Idaho Code, any area embraced within the limits of any city may, with the consent of the governing boards of such city and the respective fire protection district, expressed by ordinance or resolution, be included within the limits of a fire protection district, when formed, or be subsequently annexed thereto. Any area in any city embraced within the limits of a fire protection district, shall, upon the consent of the governing boards of such city and fire protection district, expressed by ordinance or resolution, be withdrawn from such fire district.

### **31-1430. Cooperation and reciprocating use of firefighting forces and apparatus of districts and cities.**

Fire protection districts shall have all of the powers given to political subdivisions of the state of Idaho as set forth in section 67-2339, Idaho Code, and sections 67-2326 through 67-2333, Idaho Code, inclusive, to enter into intra-agency and mutual aid agreements with other political subdivisions and municipalities in Idaho, and in other states, for the purposes of protecting life and property against loss by

fire and for all other purposes of this chapter. Any fire protection district or city fire department extinguishing a fire or responding to a call for emergency assistance to persons or property not situated within the taxing authority of the fire district or city fire department, is authorized to charge a reasonable fee for the services provided and shall have a lien upon property serviced, which lien shall be filed of record against the property in the name of the district or city in the time and manner provided by section 45-507, Idaho Code, for liens of original contractors. Fire districts and cities are also authorized to charge reasonable fees for services provided to residents located within the fire district or city in accordance with the requirements and procedures contained in sections 63-1311 and 63-1311A, Idaho Code, and shall have a lien upon the property serviced as provided in this section.

**31-1431. Contracts between fire protection districts and individual property owners outside of district.**

Fire protection districts subject to the conditions hereinafter set forth may, pursuant to the discretion of the fire protection board, contract with individual property owners whose property is situated outside of the external boundaries of the fire protection district within the state of Idaho or within any neighboring state to provide for the same measure of fire protection to such contracting property owner as is provided to property owners within the boundaries of such contracting fire protection districts. All such contracts shall be for a term of one (1) year and shall commence at 12:01 a.m. on January 1 of such year and expire at 12 midnight on December 31 of such year. Contracts shall provide for a monetary consideration to be paid in advance by such property owner and the monetary consideration shall be based upon the cost of providing such service to such property owner, including, but not limited to, covering the district's administrative and contract preparation costs, including legal fees for preparation and review of the contracts, and shall also take into consideration the distance between such property and the fire station or other facility wherein the firefighting equipment of such fire protection district is kept. Monetary consideration shall in no event be less than the amount that would have been paid in taxes that would have been levied and assessed under the provisions of this chapter, if such property had been included within the boundaries of said fire protection district. The power herein granted is subject to the limitation that no such contract may be entered into with any property owner whose house and outbuildings are situate further distant from the firehouse or other facility wherein such district's fire protection equipment is kept than the point on the external boundary of such district that is furthest distant from the firehouse or other facility wherein such district's fire protection equipment is kept. Provided further, however, that all of the contiguous lands of any contracting property owner must be included in said contract unless a portion of such property owner's lands are further distant from the firehouse where such district's firefighting equipment is kept than the point on the external boundary of such fire protection district that is furthest distant from the firehouse, in which case such portion of said lands must be excluded. For the purpose of determining value of eligible property situate outside the state of Idaho, the board of commissioners of such fire protection district shall determine as nearly as possible what the assessed value of such lands outside the state of Idaho would be if the same were situate within the state of Idaho.

**31-1432. Construction of chapter.**

The provisions of this chapter shall be liberally construed to effect the purposes thereof.

**31-1433. Continuation of existing districts -- Validating acts of officers.**

Nothing in this chapter shall be construed as impairing the legality or organization of any fire protection district heretofore organized pursuant to law, nor the legality of any act of such district done in

accordance with the prior law, nor shall it be deemed to affect the legality of the election of any officer of any such existing fire protection district, and all directors and officers duly elected, qualified and holding office at the time of the taking effect of this chapter, shall continue to serve in such office until the expiration of their present terms; provided, however, that such fire protection districts as have existed heretofore shall comply with the provisions of this chapter as soon as they can conveniently do so and thereafter be governed by the provisions of this chapter. Nor shall anything in this chapter be deemed in any way to affect the existing indebtedness of any fire protection district created under and by virtue of the provisions of chapter 3, title 30, Idaho Code. All such existing fire protection districts, and the lawful acts of their officers and agents, are hereby declared prima facie lawful as de facto fire protection districts; provided, however, that such districts shall comply with the provisions of this chapter as soon as they can conveniently do so and thereafter be governed by the provisions of this chapter.

*Note : Title 30, chapter 3 is the IDAHO NONPROFIT CORPORATION ACT.*

### **31-1434. Any dissolution.**

Dissolution of any fire protection district organized under this chapter may be initiated by a petition signed by at least twenty-five percent (25%) of the holders of title, or evidence of title, to the real property within the fire protection district, requesting dissolution of such fire protection district, in the following manner:

The petition shall first be presented to the board of county commissioners of each county in which the fire protection district is situated, signed by the number of holders of title or evidence of title above provided, which petition shall clearly designate the boundaries of the fire protection district and shall state the name of the district and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith, shall, at proper hours, be open to public inspection in the office of the clerk of the board of county commissioners between the date of their said filing and the date of the election on the question of districts as hereafter provided. The petition may be in one (1) or in several papers. When such petition is presented to the board of county commissioners, and filed in the office of the clerk of the board, the said board shall set a time for hearing of such petition, which time shall not be less than four (4) nor more than six (6) weeks from the date of the presenting and filing of said petition. A notice of the time of such hearing shall be published by said board, once a week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within the county in which said district is situated. Said notice shall give the boundaries of the fire protection district and shall state that a petition has been filed to dissolve the same, and that on the date fixed for the hearing, any taxpayer within the district, may appear at the hearing and testify and/or present exhibits upon any issue pertaining to the proposed dissolution of the fire district, or may object to or support the proposed dissolution.

After hearing and considering any and all testimony and other evidence either made in favor of or in opposition to the dissolution of the fire district, if the board of county commissioners makes a sufficient factual finding that the majority of the residents of the fire district will receive no benefit by continuing the existence of the fire district, the county commissioners shall make an order granting the petition, with or without modification. Provided however, the board of county commissioners, after hearing and considering all testimony and other evidence either in favor of or in opposition to the dissolution of the fire district, cannot make a sufficient factual finding that the majority of the residents of the fire district will receive no benefit by continuing the existence of the fire district, the county commissioners shall make an order denying the petition. After the county commissioners have entered their order approving or denying such petition, the clerk of the board of county commissioners shall cause to be published, a notice of election to be held in such proposed fire protection district, for the purpose of determining whether or not the same shall be dissolved. Such notice shall plainly and clearly designate the boundaries of the fire protection district, its name, and further, that the election is to be held to decide the question of whether the fire protection district shall be maintained or dissolved. Such notice shall be published once in

each week for three (3) successive publications prior to such election, in a newspaper published within the county aforesaid.

Such notice shall require the electors to cast ballots which shall contain the words "fire protection district dissolved .... yes" or: "fire protection district dissolved .... no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter, unless he shall possess all the qualifications required of electors under the general laws of the state and be a resident of the district.

The election qualifications of electors and canvass of the ballots shall be made in the same manner as provided for in sections 31-1406 and 31-1407, Idaho Code.

If a majority of the electors voting at such election shall vote to dissolve the fire protection district, the board of county commissioners shall, after certifying the results of such election, enter an order upon the minutes of its official proceedings dissolving said fire protection district, and such district shall thereupon be dissolved.

Provided, however, that whenever a petition requesting dissolution of a fire protection district is signed by the holders of title, or evidence of title, to all of the real property included within the fire protection district and is presented to the board of county commissioners of the county in which the fire protection district is situated, accompanied by a map clearly designating the boundaries of the district, the board of county commissioners shall set a time for hearing of such petition, which time shall not be less than four (4) nor more than six (6) weeks from the date of the presenting and filing of said petition. A notice of the time and place of such hearing shall be published by said board once a week for three (3) successive weeks previous to such hearing, in a newspaper published within the county in which the fire protection district is situated. Said notice shall give the boundaries of the fire protection district and shall state that a petition has been filed to dissolve the same, and that on the date fixed for the hearing, any resident, taxpayer, or creditor of such fire protection district may appear and offer any objection to the dissolving of the fire protection district. If at such hearing, no protests are made to the granting of the petition, the board of county commissioners shall enter an order upon the minutes of its official proceedings dissolving such fire protection district, and such district shall thereupon be dissolved. If, however, any protests from residents, taxpayers, or creditors of the district are entered at such hearing, the board of county commissioners shall, within thirty (30) days of said hearing, determine whether or not such fire protection district shall be dissolved and shall cause an order to that effect to be entered upon the minutes of its official proceedings. If the board determines that the fire protection district shall be dissolved, such dissolution shall be effective as of the date of the entry of such order upon the minutes.

The property of such district shall remain the property of the county in which such district is located and any money remaining in the fund of such district shall be expended in the maintenance and repair of the highways of such district whether such highways at the time of the dissolution, are in the incorporated territory or in unincorporated territory.

If the district is situated in two (2) or more counties, each board of county commissioners shall coordinate the hearing date and the publications of notice so that only one (1) hearing need be held. Unless otherwise agreed to by each board of county commissioners involved, the hearing shall be held at the administrative offices of the district, and the boards of county commissioners are hereby specifically authorized to act in a joint manner for such purposes. If an election is called, the boards of county commissioners shall provide that the election be held on the same day in each county, and the boards of county commissioners shall coordinate the canvass of the votes cast and make one (1) joint announcement. If a majority of votes in any county are against the dissolution of the district, such rejection shall void the dissolution of the district in all counties.

### **31-1435. Separability.**

The several parts and provisions of this chapter are hereby declared independent and severable and the invalidity of any part or feature thereof shall not affect, impair, or invalidate the remainder of said section, or any part thereof.

**31-1436. Nonliability of agency for delay in report of fire -- Exception.**

No person, corporation, partnership or association which is authorized by any city fire department, fire protection district or by any volunteer fire company to receive any report of fire or which agrees to receive and transmit the report to the fire department, fire protection district or volunteer fire company, shall be liable in any civil action for damage to property or persons, including death, caused by delay in reporting or failure to report the fire, unless the delay or failure is the result of the gross negligence of the person, corporation, partnership or association.

**31-1437. Liability for indebtedness of fire protection districts after boundary changes.**

Territory withdrawn from any fire protection district shall continue to be subject to taxation for the payment of the principal of and interest on any indebtedness, whether evidenced by bonds, notes, or other similar evidences of indebtedness created by election outstanding upon the effective date of withdrawal as fully as though the territory had not been withdrawn. For the purpose of discharging the indebtedness and interest thereon and other obligations, the territory shall be considered a part of the district the same as though not withdrawn. All provisions which could have been used to compel the payment by the withdrawn territory of its portion of the indebtedness and interest thereon had the withdrawal not occurred can be used to compel the payment on the part of the withdrawn territory of the portion for which it is liable. Provided, however, by mutual agreement, the entity annexing or withdrawing territory from the district may acquire the capital assets which represent the proceeds of the indebtedness and pay off or assume the indebtedness to the extent otherwise permitted by law and the terms of the underlying obligation.

## **Additional Idaho Code Cited in Title 31, Chapter 14**

### **41.2604. May be sole surety on bonds.**

Whenever any bond, undertaking, recognizance or other obligation is by law, or by the charger (charter), ordinances, rules or regulations of any municipality, board, body, organization, court, judge or public officer, required or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by a surety insurer qualified as in this code provided. Execution by such insurer of such bond, undertaking, obligation, recognizance or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule or regulation that such bond, undertaking, obligation, recognizance or guaranty shall be executed by one surety or by one or more sureties, or that such sureties shall be residents or householders, or freeholders, or either or both, or possess any other qualifications. All courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character shall accept and treat such bond, undertaking, obligation, recognizance or guaranty, when so executed by such insurer, as conforming to, and fully and completely complying with every such requirement of every such law, charter, ordinance, rule or regulation.

### **45-507. Claim of lien.**

(1) Any person claiming a lien pursuant to the provisions of this chapter must file a claim for record with the county recorder for the county in which such property or some part thereof is situated.

(2) The claim shall be filed within ninety (90) days after the completion of the labor or services, or furnishing of materials.

(3) The claim shall contain:

(a) A statement of his demand, after deducting all just credits and offsets;

(b) The name of the owner, or reputed owner, if known;

(c) The name of the person by whom he was employed or to whom he furnished the materials; and

(d) A description of the property to be charged with the lien, sufficient for identification.

(4) Such claim must be verified by the oath of the claimant, his agent or attorney, to the effect that the affiant believes the same to be just.

(5) A true and correct copy of the claim of lien shall be served on the owner or reputed owner of the property either by delivering a copy thereof to the owner or reputed owner personally or by mailing a copy thereof by certified mail to the owner or reputed owner at his last known address. Such delivery or mailing shall be made no later than five (5) business days following the filing of said claim of lien.

### **55-705. By whom taken -- Members of the armed forces.**

Any officer of any component of any branch of the armed forces of the United States as may be designated to take a deposition, shall have the general powers of a notary public in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents and all other forms of notarial acts to be executed by persons in any of the armed forces of the United States or subject to military or naval law and/or their wives and/or dependents.

Such an acknowledgment or oath, whether heretofore or hereafter so taken within or without the state of Idaho or the United States and whether with or without seal or stamp, shall have the same force and effect as an acknowledgment or oath before a notary public duly commissioned by and residing in the state of Idaho. Recital in the certificate of such officer that he holds the office stated in the certificate and that the affiant is a member of the armed forces or subject to military or naval law, or wife or dependent of such member, shall be prima facie evidence of such facts.

**59-401. Loyalty oath -- Form.**

Before any officer elected or appointed to fill any office created by the laws of the state of Idaho enters upon the duties of his office, he must take and subscribe an oath, to be known as the official oath, which is as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Idaho, and that I will faithfully discharge the duties of (insert office) according to the best of my ability."

**61-129. Public utility.**

The term "public utility" when used in this act includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, water corporation, and wharfinger, as those terms are defined in this chapter and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act: provided, that the term "public utility" as used in this act shall cover cases both where the service is performed and the commodity delivered directly to the public or some portion thereof, and where the service is performed or the commodity delivered to any corporation or corporations, or any person or persons, who in turn, either directly or indirectly or mediately or immediately, performs the services or delivers such commodity to or for the public or some portion thereof.

**63-802. Limitation on budget requests -- Limitation on tax charges -- Exceptions.**

(1) Except as provided in subsection (3) of this section for tax year 1995, and each year thereafter, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of:

- (a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue that would have been generated by applying the levy of the previous year, not including any levy described in subsection (4) of this section, to any increase in market value subject to taxation resulting from new construction or change of land use classification as evidenced by the value shown on the new construction roll compiled pursuant to section 63-301A, Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor; or
- (b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made; or
- (c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section; or
- (d) In the case of school districts, the restriction imposed in section 33-802, Idaho Code; or
- (e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed; or
- (f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount

not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section; or

(g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section 34-106, Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section; or

(h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district; or

(i) In the instance or case of cooperative service agencies, the restrictions imposed in sections 33-315 through 33-318, Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section 31-1425, Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section 34-106, Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section 63-317, Idaho Code, for the preceding tax year.

### **63-812. Accounting and collection of property taxes.**

The tax collector shall collect and account for the amount of property taxes due and remit any property tax revenues collected to the county auditor showing distribution to the proper accounts or funds.

### **63-1311. Fees for services.**

Notwithstanding any other provision of law, the governing board of any taxing district may impose and cause to be collected fees for those services provided by that district which would otherwise be funded by property tax revenues. The fees collected pursuant to this section shall be reasonably related to, but shall not exceed, the actual cost of the service being rendered. No charge, other than property taxes shall be included on a tax notice unless the taxing district placing such charge has received approval by the board of county commissioners to place such charge on the tax notice and meets the criteria set forth in section 63-902, Idaho Code.

**63-1311A. Advertisement of and hearing on fee increases.**

No taxing district may make a decision approving a fee increase that exceeds one hundred five per cent (105%) of the amount of the fee last collected or a decision imposing a new fee, unless it first holds a hearing upon such proposed fee increase or fee imposition at a regular or special meeting of the district's governing body and after it gives public notice of such hearing in the manner provided in this section. Any taxing district that is required to hold a hearing and give public notice of the hearing as provided in this section, and which fails to do so, shall have the validity of all or a portion of the fee increase that it collects be voidable.

The taxing district shall give public notice of its intent to make a decision on a proposed fee increase, that exceeds one hundred five per cent (105%) of the amount of fees last collected prior to such decision, or a decision to impose a new fee by giving public notice either by advertising in at least one (1) newspaper as defined in section 60-106, Idaho Code, or by holding three (3) public meetings in three (3) different locations in the district or by a single mailing notice to all district residents, providing that the same information is given and providing the meeting shall be held not less than seven (7) days after mailing of the notice. An advertisement used to satisfy the requirements of this section shall be run once each week for the two (2) weeks preceding the week during which the hearing required by this section will be held. The advertisement shall state that the taxing district will meet on a certain day, time and place fixed in the advertisement, for the purpose of hearing public comments regarding any proposed fee increase beyond the limits prescribed by this section, or imposition of a new fee and to explain the reasons for such action.

**67-450B. Independent financial audits by governmental entities -- Filing requirements.**

(1) The requirements set forth in this section are minimum audit requirements for all local governmental entities, and include, without limitation, all cities, counties, authorities and districts organized as separate legal and reporting entities under Idaho law, and include the councils, commissions and boards as appointed or elected and charged with fiscal management responsibilities of the local governmental entity.

Audits under these requirements are to be performed by independent auditors in accordance with generally accepted governmental auditing standards, as defined by the United States general accounting office. The auditor shall be employed on written contract.

The entity's governing body shall be required to include in its annual budget all necessary expenses for carrying out the provisions of this section.

The entity shall file two (2) copies of each completed audit report with the legislative council within ten (10) days after receiving the audit from the contracting independent auditor.

(2) The minimum requirements for any audit performed under the provisions of this section are:

(a) The governing body of a local governmental entity whose annual budget (from all sources) exceeds two hundred fifty thousand dollars (\$250,000) shall cause a full and complete audit of its financial statements to be made each fiscal year.

(b) The governing body of a local governmental entity whose annual budget (from all sources) exceeds one hundred thousand dollars (\$100,000), but does not exceed two

hundred fifty thousand dollars (\$250,000) may elect to have its financial statements audited on a biennial basis and may continue biennial auditing cycles in subsequent years as long as the entity's budget does not exceed two hundred fifty thousand dollars (\$250,000) during either year of any biennial period. Biennial audits shall include an audit of each fiscal year since the previous audit.

(c) The governing body of a local governmental entity whose annual budget (from all sources) exceeds fifty thousand dollars (\$50,000), but does not exceed one hundred thousand dollars (\$100,000) may elect to have its financial statements reviewed on a biennial basis and may continue biennial review cycles in subsequent years as long as the entity's annual budget does not exceed one hundred thousand dollars (\$100,000) during either year of any biennial period. Biennial reports of review shall include a review of each fiscal year since the previous review report.

(d) The governing body of a local governmental entity whose annual budget (from all sources) does not exceed fifty thousand dollars (\$50,000) has no minimum audit requirements under this section.

(e) Federal audit requirements applicable because of receipt of federal assistance supersede the minimum audit requirements provided in this section.

**67-2326. Joint action by public agencies – Purpose.**

It is the purpose of this act to permit the state and public agencies to make the most efficient use of their powers by enabling them to cooperate to their mutual advantage and thereby provide services and facilities and perform functions in a manner that will best accord with geographic, economic, population, and other factors influencing the needs and development of the respective entities.

**67-2327. Definitions: “Public Agency” and “State”**

“Public agency” means any city or political subdivision of this state, including, but not limited to counties; school districts; highway districts; and port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the state of Idaho; any agency of the state government; and any city or political subdivision of another state.

"State" means a state of the United States and the District of Columbia.

**67-2328. Joint exercise of powers.**

(a) Any power, privilege or authority, authorized by the Idaho Constitution, statute or charter, held by the state of Idaho or a public agency of said state, may be exercised and enjoyed jointly with the state of Idaho or any other public agency of this state having the same powers, privilege or authority; but never beyond the limitation of such powers, privileges or authority; and the state or public agency of the state, may exercise such powers, privileges and authority jointly with the United States, any other state, or public agency of any of them, to the extent that the laws of the United States or sister state, grant similar powers, privileges or authority, to the United States and its public agencies, or to the sister state and its public agencies; and provided the laws of the United States or a sister state allow such exercise of joint power, privilege or authority. The state or any public agency thereof when acting jointly with another public agency of this state may exercise and enjoy the power, privilege and authority conferred by this act; but nothing in this act shall be construed to extend the jurisdiction, power, privilege or authority of the state or public agency thereof, beyond the power, privilege or authority said state or public agency might have if acting alone.

(b) Any state or public agency may enter into agreements with one another for joint or cooperative action which includes, but is not limited to, joint use, ownership and/or operation

agreements pursuant to the provisions of this act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of these participating public agencies shall be necessary before any such agreement may enter into force.

(c) Any such agreement shall specify the following:

- (1) Its duration.
- (2) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created.
- (3) Its purpose or purposes.
- (4) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor.
- (5) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.
- (6) Any other necessary and proper matters.

(d) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (1), (3), (4), (5), and (6) of subsection (c) of this section, contain the following:

- (1) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented.
- (2) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.
- (3) No agreement made pursuant to this act shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performances may be offered in satisfaction of the obligation or responsibility.

**67-2329. Agreement filed with secretary of state -- Constitutionality -- Enforceable in courts -- Reciprocity.**

Prior to its becoming binding, any agreement made pursuant to this act between two (2) or more states or between two (2) or more public agencies of two (2) or more states shall be filed with the secretary of state, who shall require an opinion of the attorney general that such agreement does not violate the provisions of the Constitution of the United States, or the Idaho Constitution and statutes. Such opinion shall be rendered within thirty (30) days from the date of request by the secretary of state and submitted to the secretary and interested parties. Failure to render such opinion within such time shall be considered as approval by the attorney general. Upon receiving an opinion that the agreement is constitutional the secretary shall notify the agreeing parties and the agreement shall be in full force and effect from the date of such notice, provided, that such agreement shall not be enforced by the courts of this state unless the state of Idaho or public agency thereof is provided due process for enforcement in the courts of the United States or a sister state. In the event of action on any such agreement, any state or public agency joined in such action not a real party in interest, may seek damages incurred by it because of such joinder against any proper party to the action.

**67-2330. Approval of appropriate state officer or agency.**

In the event that an agreement made pursuant to this act shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction. Failure to disapprove an agreement submitted hereunder within thirty (30) days of its submission shall constitute approval thereof.

**67-2331. Funds -- Property -- Personnel -- Services.**

Any public agency entering into an agreement pursuant to this act may appropriate funds and may sell, lease, give, or otherwise supply public property to the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

**67-2332. Interagency contracts.**

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform, including, but not limited to joint contracting for services, supplies and capital equipment, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties.

**67-2333. Powers of agencies not increased or diminished.**

Nothing in this act shall be interpreted to grant to any state or public agency thereof the power to increase or diminish the political or governmental power of the United States, the state of Idaho, a sister state, nor any public agency of any of them.

**67-2334. Definition: "Volunteer"**

For the purposes of this act, "volunteer" means any person who contributes his services in a program or service conducted or sponsored by any agency, department or unit of state government for which he receives no financial remuneration, except for reasonable and necessary expenses actually incurred in the course of his participation in the program.

**67-2335. Acceptance of volunteers -- Expenses.**

No law of this state prohibits any agency, department or unit of state government from accepting volunteers for any program which it conducts or sponsors. The agency, department or unit of state government sponsoring the program or service may reimburse volunteers for reasonable and necessary expenses actually incurred in the course of their participation in those programs.

**67-2336. Qualifications of volunteers.**

Civil service law and requirements shall not apply to volunteers in any program conducted or sponsored by any agency, department or unit of state government. Requirements for volunteers are limited to requirements set by federal statute and to any requirements set by the agency, department or unit of state government sponsoring the program or service.

**67-2337. Extraterritorial authority of peace officers.**

(1) As used in this section, "peace officer" shall mean a certified full-time paid employee of a police or law enforcement agency whose duties include and primarily consist of the prevention,

investigation and detection of crime, and the enforcement of penal, traffic, or highway laws of this state or any political subdivision.

(2) All authority that applies to peace officers when performing their assigned functions and duties within the territorial limits of the respective city or political subdivisions, where they are employed, shall apply to them outside such territorial limits to the same degree and extent only when any one (1) of the following conditions exist:

(a) A request for law enforcement assistance is made by a law enforcement agency of said jurisdiction.

(b) The peace officer possesses probable cause to believe a crime is occurring involving a felony or an immediate threat of serious bodily injury or death to any person.

(c) When a peace officer is in fresh pursuit as defined in and pursuant to chapter 7, title 19, Idaho Code.

(3) Subsection (2) of this section shall not imply that peace officers may routinely perform their law enforcement duties outside their jurisdiction in the course and scope of their employment.

(4) Cities or political subdivisions may enter into mutual assistance compacts with other cities or political subdivisions of this state or of states immediately adjacent. In the case of a mutual assistance compact between cities or political subdivisions, the original, employing agency shall be responsible for any liability arising from the acts of its employees participating in such compact. Any mutual assistance compact between a city or political subdivision of this state with a city or political subdivision of any other state shall include a written statement of assumption of liability consistent with the requirements of this section.

(5) Circumstances surrounding any actual exercise of peace officer authority outside the territorial limits of the city, county, or political subdivision of their employment shall be reported, as soon as safety conditions allow, to the law enforcement agency having jurisdiction where the authority granted herein is exercised and the officer shall relinquish authority and control over any event to the authority having jurisdiction.

(6) The state of Idaho and its agencies or departments shall not be liable for the acts of police officers, other than its own employees, commissioned by the director of the Idaho state police, for acts done under a mutual assistance compact created under this section.

#### **67-2338. Extraterritorial benefits of public officers.**

All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation insurance, and other benefits which apply to the activity of officers, agents, or employees of any city or political subdivision when performing their respective functions within the territorial limits of their respective cities or political subdivisions, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially.

#### **67-2339. Mutual aid by state agencies.**

State agencies may provide mutual aid, including personnel, equipment, detention facilities, including the state penitentiary and other available resources, to assist cities or political subdivisions in accordance with mutual aid agreements or at the direction of the governor.

#### **67-2340. Formation of public policy at open meetings.**

The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

**67-2341. Open public meetings -- Definitions.**

As used in this act:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with sections 67-2342 through 67-2346, Idaho Code.

(2) "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.

(3) "Executive session" means any meeting or part of a meeting of a governing body which is closed to any persons for deliberation on certain matters.

(4) "Public agency" means:

(a) any state board, commission, department, authority, educational institution or other state agency which is created by or pursuant to statute, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) any regional board, commission, department or authority created by or pursuant to statute;

(c) any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

(d) any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.

(5) "Governing body" means the members of any public agency which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

**67-2342. Governing bodies -- Requirement for open public meetings.**

(1) Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in chapter 38, title 63, Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under chapter 43, title 41, Idaho Code, the Idaho insurance guaranty association established under chapter 36, title 41, Idaho Code, and the surplus line association approved by the director of the Idaho department of

insurance as authorized under chapter 12, title 41, Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

(5) All meetings may be conducted using telecommunications devices which enable all members of a governing body participating in the meeting to communicate with each other. Such devices may include, but are not limited to, telephone or video conferencing devices and similar communications equipment. Participation by a member of the governing body through telecommunications devices shall constitute presence in person by such member at the meeting; provided however, that at least one (1) member of the governing body, or the director of the public agency, or the chief administrative officer of the public agency shall be physically present at the location designated in the meeting notice, as required under section 67-2343, Idaho Code, to ensure that the public may attend such meeting in person. The communications among members of a governing body must be audible to the public attending the meeting in person and the members of the governing body.

#### **67-2343. Notice of meetings.**

(1) Regular meetings. No less than a five (5) calendar day meeting notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. A forty-eight (48) hour agenda notice shall be required in advance of each regular meeting, however, additional agenda items may be added after completion of the agenda up to and including the hour of the meeting, provided that a good faith effort is made to include in the notice all agenda items known at the time to be probable items of discussion. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency, or if no such office exists, at the building where the meeting is to be held.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If an executive session only will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

#### **67-2344. Written minutes of meetings.**

(1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes, and upon the request of a member, the vote of each member, by name;

(2) Minutes of executive sessions may be limited to material the disclosure of which is not inconsistent with the provisions of section 67-2345, Idaho Code, but shall contain sufficient detail to convey the general tenor of the meeting.

**67-2345. Executive sessions -- When authorized.**

(1) Nothing contained in this act shall be construed to prevent, upon a two-thirds (2/3) vote recorded in the minutes of the meeting by individual vote, a governing body of a public agency from holding an executive session during any meeting, after the presiding officer has identified the authorization under this act for the holding of such executive session. An executive session may be held:

- (a) To consider hiring a public officer, employee, staff member or individual agent. This paragraph does not apply to filling a vacancy in an elective office;
- (b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;
- (c) To conduct deliberations concerning labor negotiations or to acquire an interest in real property which is not owned by a public agency;
- (d) To consider records that are exempt from disclosure as provided in chapter 3, title 9, Idaho Code;
- (e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;
- (f) To consider and advise its legal representatives in pending litigation or where there is a general public awareness of probable litigation;
- (g) By the commission of pardons and parole, as provided by law;
- (h) By the sexual offender classification board, as provided by chapter 83, title 18, Idaho Code;
- (i) By the custody review board of the Idaho department of juvenile corrections, as provided by law.

(2) Labor negotiations may be conducted in executive session if either side requests closed meetings. Notwithstanding the provisions of section 67-2343, Idaho Code, subsequent sessions of the negotiations may continue without further public notice.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

**67-2346. Open legislative meetings required.** All meetings of any standing, special or select committee of either house of the legislature of the state of Idaho shall be open to the public at all times, except in extraordinary circumstances as provided specifically in the rules of procedure in either house, and any person may attend any meeting of a standing, special or select committee, but may participate in the committee only with the approval of the committee itself.

**67-2347. Violations.**

(1) If an action, or any deliberation or decision-making that leads to an action, occurs at any meeting which fails to comply with the provisions of sections 67-2340 through 67-2346, Idaho Code, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of sections 67-2340 through 67-2346, Idaho Code, who knowingly conducts or participates in a meeting which violates the provisions of this act shall be subject to a fine not to exceed one hundred fifty dollars (\$150) for a first violation and not to exceed three hundred dollars (\$300) for each subsequent violation as a civil penalty.

(3) The attorney general shall have the duty to enforce this act in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this act in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this act, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose as provided in section 31-2603, Idaho Code.

(4) Any person affected by a violation of the provisions of this act may commence a civil action in the magistrate division of the district court of the county in which the public agency ordinarily meets, for the purpose of requiring compliance with provisions of this act. No private action brought pursuant to this subsection shall result in the assessment of a civil penalty against any member of a public agency and there shall be no private right of action for damages arising out of any violation of the provisions of sections 67-2342 through 67-2346, Idaho Code. Any suit brought for the purpose of having an action declared or determined to be null and void pursuant to subsection (1) of this section shall be commenced within thirty (30) days of the time of the violation or alleged violation of the provisions of this act. Any other suit brought under the provisions of this section shall be commenced within one hundred eighty (180) days of the time of the violation or alleged violation of the provisions of this act.

#### **67-6511. Zoning ordinance.**

Each governing board shall, by ordinance adopted, amended, or repealed in accordance with the notice and hearing procedures provided under section 67-6509, Idaho Code, establish within its jurisdiction one (1) or more zones or zoning districts where appropriate. The zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan.

Within a zoning district, the governing board shall where appropriate, establish standards to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures. All standards shall be uniform for each class or kind of buildings throughout each district, but the standards in one (1) district may differ from those in another district.

Ordinances establishing zoning districts shall be amended as follows:

(a) Requests for an amendment to the zoning ordinance shall be submitted to the zoning or planning and zoning commission which shall evaluate the request to determine the extent and nature of the amendment requested. Particular consideration shall be given to the effects of any proposed zone change upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction. An amendment of a zoning ordinance applicable to an owner's lands or approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.

(b) After considering the comprehensive plan and other evidence gathered through the public hearing process, the zoning or planning and zoning commission may recommend and the governing board may adopt or reject an ordinance amendment pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code, provided that in the case of a zoning district boundary change, and notwithstanding jurisdictional boundaries, additional notice shall be provided by mail to property owners or purchasers of record within the land being considered, and within three hundred (300) feet of the external boundaries of the land being considered, and any additional area that may be impacted by the proposed change as determined by the commission. Notice shall also

be posted on the premises not less than one (1) week prior to the hearing. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of procedures which would provide adequate notice may be provided by local ordinance in lieu of posted or mailed notice. In the absence of a locally adopted alternative notice procedure, sufficient notice shall be deemed to have been provided if the city or county provides notice through a display advertisement at least four (4) inches by two (2) columns in size in the official newspaper of the city or county at least fifteen (15) days prior to the hearing date, in addition to site posting on all external boundaries of the site. Any property owner entitled to specific notice pursuant to the provisions of this subsection shall have a right to participate in public hearings before a planning commission, planning and zoning commission or governing board subject to applicable procedures.

(c) If the request is found by the governing board to be in conflict with the adopted plan, or would result in demonstrable adverse impacts upon the delivery of services by any political subdivision providing public services, including school districts, within the planning jurisdiction, the governing board may require the request to be submitted to the planning or planning and zoning commission or, in absence of a commission, the governing board may consider an amendment to the comprehensive plan pursuant to the notice and hearing procedures provided in section 67-6509, Idaho Code. After the plan has been amended, the zoning ordinance may then be considered for amendment pursuant to section 67-6511(b), Idaho Code.

(d) If a governing board adopts a zoning classification pursuant to a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.