



STATE OF IDAHO

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June 15, 1989

Carolyn M. Jones, Secretary
Buhl Highway District
P.O. Box 386
Buhl, ID 83316-0386

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Re: Highway District Elections
A.G. Reference No. 7914

Dear Ms. Jones:

In your letter of May 23, 1989, you ask the following questions regarding a highway district override election:

1. Are we to hold the override election from 12:00 noon to 8:00 p.m., the same as for the election of commissioners (40-1305), or should we hold the election in conformity with the general laws of the state?
2. We also would like to know if a person must be a registered voter in order to vote in a highway district override election.

Idaho Code § 40-1305(2) provides as follows:

Highway commissioners have power to make regulations for the conduct of the election as are not inconsistent with any statutory provisions. At elections for highway commissioners, the polls shall be open from twelve o'clock noon to eight o'clock in the evening. Except as otherwise provided by statute,

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the election, and all other elections held under this chapter, shall be held in conformity with the general laws of the state.

Although this provision speaks to the time for holding "elections for highway commissioners," it is silent as to elections for other purposes such as override elections. Thus, it is necessary to look for guidance to "the general laws of the state," found in title 34, Idaho Code.

Specifically, Idaho Code § 34-1101(2) provides that:

At all other elections conducted under title 34, Idaho Code, the polls shall be opened at 12 noon and remain open until all registered electors of that precinct have appeared and voted or until 8:00 p.m. of the same day, whichever comes first, except that where, in the discretion of the local official charged with the responsibility of conducting the election, the polls may be open for a longer period, provided that timely notice of such time extension has been given the electorate.

Thus, the general election laws of the state provide that elections governed by title 34 of the Idaho Code will normally be held from noon to 8:00 p.m. However, local officials -- in this case, the highway commissioners -- may, in their discretion, open the polls at any time prior to noon as long as appropriate notice of the time extension has been given the electorate as required by § 34-1101(2).

As for your second question, § 40-1305 and the remainder of the statutes governing highway district elections are silent on the issue of registration. Again, it is necessary to review title 34 for any applicable law on this question.

Idaho Code § 34-404 mandates that:

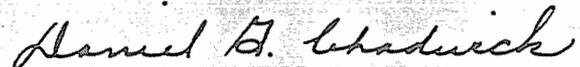
All electors must register before being able to vote at any primary, general, special, school or any other election governed by the provisions of title 34, Idaho Code. (Emphasis added.)

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Because of the applicability of title 34 to highway district elections, we are of the opinion that in order to vote in any highway district election, a voter must be registered in compliance with Idaho registration law found at chapter 4, title 34, Idaho Code. We suggest you contact the Twin Falls County Clerk to work out the details of obtaining an appropriate voter registration list for your elections.

If you have additional questions, please do not hesitate to contact me.

Sincerely,



DANIEL G. CHADWICK
Chief, Intergovernmental
Affairs Division

DGC/mkf

cc: Ray Oliver, Highway District Association