

# Idaho Public Health Districts

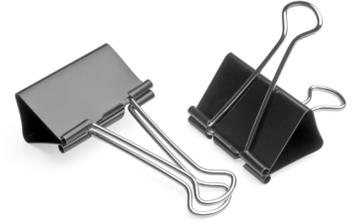


Districting Law - Idaho Code, Title 39, Chapter 4, Sections 401 through 426 and IDAPA Rules



# Public Health Districts Chronology of Major Law Changes

Updated May 2012.



**Districting Law - Idaho Code Chapter 4, Title 39-401 through 426.**  
The following are Legislative and other changes with the year they occurred.

**1970** Idaho Legislature passes Districting Law establishing seven Public Health Districts.  
Effective July 1, 1971.

**1970 Session Laws – House Bill 412.**

The following reference is from the original district law. "...but in no case shall this be less than thirty-five percent (35%). The percentage of general state aid shall be uniform throughout all districts.

**1971** District Health Departments come into existence. State Board of Health (SBOH), to avoid duplication of efforts, delegates public health programs to the Districts with provision that SBOH must approve all District rules and regulations.

Original Legislation required State Legislature to match money contributed by counties for support of District (35:65 ratio - State:County).

**1973 Session Laws – House Bill.**

This section was changed converting the 35% match to 54% of the ad valorem tax; "...uniform throughout all districts..." was eliminated and inserted was, "The percentage of general state aid shall be distributed so as to provide no less than fifty-four (54%) of the ad valorem taxes contributed by each county, computed on individual county basis."

**1973** State financial support of Districts increased to 54% of county ad valorem tax.

**1975 Session Laws – House Concurrent Resolution 26.**

Authorized the establishment of a committee to study relationship between Department of Health and Welfare and the Health Districts. This led to many changes being made in our law the following year.

**1976** Legislative Council study results in the following legislation:

- I. Legislative Intent added to District Law. (39-401)
  - 1) Health Districts are not State Agencies, but single purpose districts.
  - 2) Authority of District Director affirmed to prescribe position and qualifications of staff and requiring compliance with the State merit system and participation in retirement system.
  - 3) The matters of location and deposit of Health District funds and documents of payment from these funds do not reflect upon health district's non-State agency status.

- II. Legislation:  
Clarified relationship between Health and Welfare and the Health Districts and, placed time limit of approval of District rules and regulations by SBOH. (Interim Committee had recommended removal of approval requirement.)
- III. Changed method of computing each county's share of District's budget from that of using only the total population to using 70% population and 30% assessed valuation (changed to market value in 1986).
- IV. Removed previously required match by state of contributions raised by counties.
- V. District funds were no longer combined with Health and Welfare funds, with each District having its own account requiring it to operate on cash flow basis.

**1976 Session Laws** – Senate Bill 1264.

Many changes were made in the District Law strengthening the District and separating us from the Department of Health and Welfare. Section 425 was changed as it related to the distribution of the funds. Bill passed March 19, 1976.

**1976 Session Laws** – House Bill 689.

Repealed Section 39-425 and added a new 39-425. The major changes were (1) the elimination of the required match by the state, of money contributed by the counties; (2) elimination of the following wording, "The percentage of general state aid shall be distributed so as to provide no less than sixty – seven percent (67%) of the ad valorem taxes contributed by each county, computed on an individual county basis;" (3) inserting the word "request" into the section. "...a request for money to be used to match funds raised by the levy of the counties,..." The matching amount to be included in the request shall be sixty-seven percent (67%) of the amounts pledged to be raised by the levy of each county..."

**1977** Legislation requiring a yearly audit to be performed by Legislative Auditor (changed to every two years in 1982).

**1980** Attorney General issues an opinion that Permanent Building Fund money cannot be appropriated to Health Districts.

Legislation authorizing District Boards of Health authority to establish fee schedules for services rendered.

**1984** Legislation increasing District's Board of Health memberships so each county commission may appoint a board member.



- 1986** Legislation stating the State Board of Health and Welfare has 75 days to disapprove District regulations and only if in conflict with state law.
- 1986 Session Laws** – Senate Bill 1355.  
Elimination of the director of Department of Health and Welfare from our budget request to the legislature.
- 1988** Legislation allowing Health Districts to exchange or sell real property and enter into leases with the Idaho Health Facilities Authority.
- 1990** Legislation providing for a minimum amount of state matching aid to provide for limits on state liability (minimum match of 67%).
- 1990 Session Laws** – Senate Bill 1460.  
Provides for the matching amount to be included in the request shall be a “minimum” of 67% of the amounts pledged by the counties. Also changes state liability from 67% of contribution by each county to funds actually authorized or granted to districts.
- 1993** Legislation requiring that measures adopted by Public Health Districts be adopted in compliance with the Administrative Procedures.
- 2007** Legislation changing Idaho Code 39-412 to reflect a change in the compensation of Board members, to reference Idaho Code 59-509(i).
- 2007** Legislation changing Idaho Code 39-411 composition of District Boards of Health to allow those Districts comprised of 8 counties to consist of not less than eight members or more than nine members.
- 2008** Legislation changing Idaho Code 39-414 to change our language “For purposes of this chapter, a PH district is not a subdivision of the state and is considered an independent body corporate and politic, in terms of negotiating long term debt financing. (This will move Local PH outside the Frasier legal case for debt financing).
- 2010** Legislation changing Idaho Code, Section 39-411 to add language that allows boards of county commissioners to appoint their representative Board of Health member at any time if the current Board member leaves office.
- 2010** Legislation changing Idaho Code, Section 39-416 to add language that requires public health to have all proposed rules regarding environmental protection or programs reviewed and approved by the state board of environmental quality and adopted by a concurrent resolution of both houses of legislation. It is the intent of the legislature that standards and rules relating to subsurface sewage systems, wastewater treatment, sewage systems and water quality be consistent statewide.

### **39-401. Legislative Intent.**

The various health districts, as provided for in this chapter, are not a single department of state government unto themselves, nor are they a part of any of the twenty (20) departments of state government authorized by section 20, article IV, Idaho constitution, or of the departments prescribed in section 67-2402, Idaho Code.

It is legislative intent that health districts operate and be recognized not as state agencies or departments, but as governmental entities whose creation has been authorized by the state, much in the manner as other single purpose districts. Pursuant to this intent, and because health districts are not state departments or agencies, health districts are exempt from the required participation in the services of the purchasing agent or employee liability coverage, as rendered by the department of administration. However, nothing shall prohibit the health districts from entering into contractual [contractual] arrangements with the department of administration, or any other department of state government or an elected constitutional officer, for these or any other services.

It is legislative intent to affirm the provisions of section 39-413, Idaho Code, requiring compliance with the state merit system, and to affirm the participation of the health districts in the public employee retirement system, pursuant to section 39-426, Idaho Code, chapter 13, title 59, Idaho Code, and chapter 53, title 67, Idaho Code.

It is also legislative intent that the matters of location of deposit of health district funds, or the instruments or documents of payment from those funds shall be construed as no more than items of convenience for the conduct of business, and in no way reflect upon the nature or status of the health districts as entities of government.

This section merely affirms that health districts created under this chapter are not state agencies, and in no way changes the character of those agencies as they existed prior to this act.



### 39-408. Establishment of Districts.

There is hereby established within the state of Idaho seven (7) public health districts more particularly defined as follows:

**District No. 1** shall include the counties of Boundary, Bonner, Kootenai, Benewah and Shoshone;

**District No. 2** shall include the counties of Latah, Clearwater, Nez Perce, Lewis and Idaho;

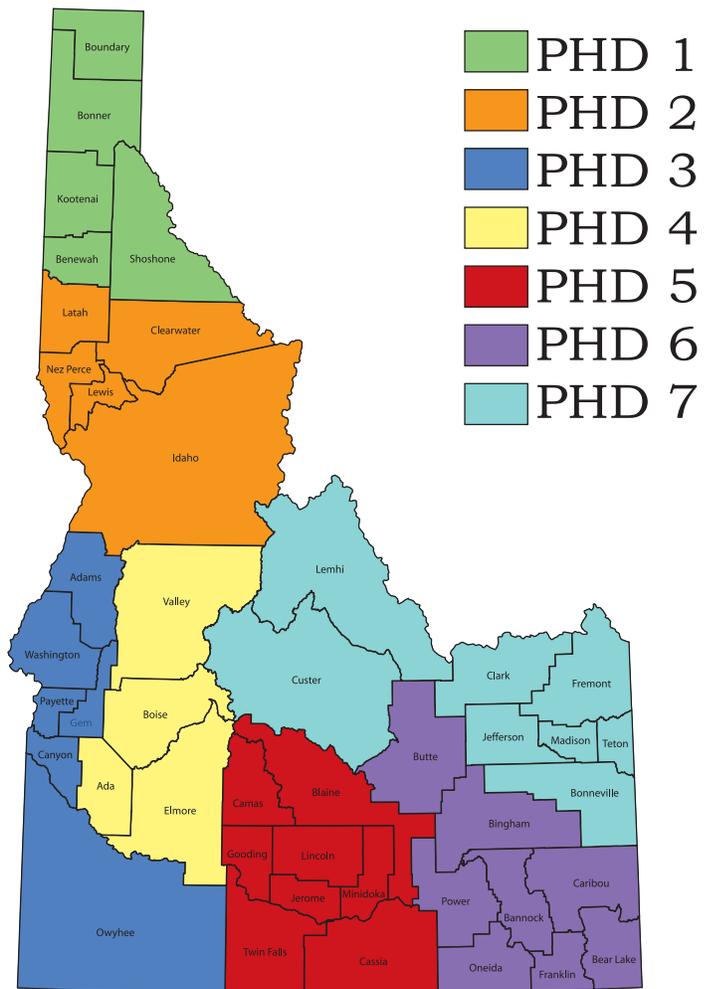
**District No. 3** shall include the counties of Adams, Washington, Payette, Gem, Canyon and Owyhee;

**District No. 4** shall include the counties of Valley, Boise, Ada and Elmore;

**District No. 5** shall include the counties of Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls and Cassia;

**District No. 6** shall include the counties of Power, Oneida, Bannock, Franklin, Caribou, Bear Lake, Bingham and Butte;

**District No. 7** shall include the counties of Lemhi, Custer, Clark, Jefferson, Bonneville, Teton, Madison and Fremont.



### 39-409. District Health Departments — Establishment — Services.

There is hereby created and established in each of the above described public health districts a district health department, hereinafter referred to as the district health department. The district health department shall have as its head the district board of health.

The district health department will provide the basic health services of public health education, physical health, environmental health, and public health administration, but this listing shall not be construed to restrict the service programs of the district health department solely to these categories. Each district shall have a doctor of medicine licensed in Idaho as a staff member or as a regular consultant.

### **39-410. District Board of Health — Establishment.**

There is hereby created and established in each of the public health districts a district board of health, hereinafter referred to as the district board, which shall be vested with the authority, control, and supervision of the district health department, and with such powers as required to perform the duties as are set forth in this act and shall be responsible for supervision of all district health programs.

### **39-411. Composition Of District Board — Qualifications Of Members — Appointment And Removal — Terms — Trustee Selected For Board Of Trustees Of District Boards Of Health.**

For those districts comprised of less than eight (8) counties, the district board of health shall consist of seven (7) members to be appointed by the boards of county commissioners within each district acting jointly, and each board of county commissioners may appoint a board member. For those districts comprised of eight (8) counties, the district board of health shall consist of not less than eight (8) members nor more than nine (9) members and each board of county commissioners may appoint a board member. Each member of the district board of health shall be a citizen of the United States, a resident of the state of Idaho and the public health district for one (1) year immediately last past, and a qualified elector. One (1) member of the district board, if available to serve, shall be a physician licensed by the Idaho state board of medicine and no more than one (1) member shall be appointed from any professional or special interest group. All members shall be chosen with due regard to their knowledge and interest in public health and in promoting the health of the citizens of the state and the public health district. Representation shall be assured from rural as well as urban population groups. All appointments to the district board shall be confirmed by a majority vote of all the county commissioners of all the counties located within the public health district. Any member of the district board may be removed by majority vote of all the county commissioners of all the counties located within the district. The members of the district board, each year, shall select a chairman, a vice-chairman and a trustee. The trustee shall represent the district board as a member of the board of trustees of the Idaho district boards of health. The board of trustees of the Idaho district boards of health shall have authority to allocate appropriations from the legislature to the health districts. The board of trustees shall develop and administer a formula for the allocation of legislative appropriations.

The members of the district board of health shall be appointed for the purpose of organization as follows: One (1) member to be appointed for a term of one (1) year, one (1) for two (2) years, one (1) for three (3) years, two (2) for four (4) years and two (2) for five (5) years. Each succeeding vacancy shall be filled by the boards of county commissioners within the district acting jointly and with confirmation as herein described for a term of five (5) years, subject to reappointment; and vacancies on the board for an unexpired term shall be filled for the balance of the unexpired term.

Notwithstanding any provision of this section as to term of appointment, if a board member is an appointee for a board of county commissioners, and if that board member is an elected county commissioner and leaves office prior to the expiration of the term on the district board of health, the board of county commissioners may declare the position vacant and may appoint another currently elected county commissioner to fill the unexpired portion of the term of that board member.



### **39-412. Meetings Of The District Board — Compensation Of Members.**

The district board shall hold such meetings as may be necessary for the orderly conduct of its business and such meetings may be called upon seventy-two (72) hours' notice by the chairman or a majority of the members. Four (4) members shall be necessary to constitute a quorum and the action of the majority of members present shall be the action of the board. The members of the board shall be compensated as provided by section 59-509(i), Idaho Code.

### **39-413. District Health Director — Appointment — Powers And Duties.**

A district health director shall be appointed by the district board. The director shall have and exercise the following powers and duties in addition to all other powers and duties inherent in the position or delegated to him or imposed upon him by law or rule, regulation, or ordinance:

1. To be secretary and administrative officer of the district board of health;
2. To prescribe such rules and regulations, consistent with the requirements of this chapter, as may be necessary for the government of the district, the conduct and duties of the district employees, the orderly and efficient handling of business and the custody, use and preservation of the records, papers, books and property belonging to the public health district;
3. To administer oaths for all purposes required in the discharge of his duties;
4. With the approval of the district board to:
  - a. Prescribe the positions and the qualifications of all personnel under the district health director on a nonpartisan merit basis in accordance with the objective standards approved by the district board.
  - b. Fix the rate of pay and appoint, promote, demote, and separate such employees and to perform such other personnel actions as are needed from time to time in conformance with the requirements of chapter 53, title 67, Idaho Code.
  - c. Create such units and sections as are or may be necessary for the proper and efficient functioning of the duties herein imposed.



## 39-414. Powers And Duties Of District Board.

The district board of health shall have and may exercise the following powers and duties:

1. To administer and enforce all state and district health laws, regulations, and standards.
2. To do all things required for the preservation and protection of the public health and preventive health, and such other things delegated by the director of the state department of health and welfare or the director of the department of environmental quality and this shall be authority for the director(s) to so delegate.
3. To determine the location of its main office and to determine the location, if any, of branch offices.
4. To enter into contracts with any other governmental or public agency whereby the district board agrees to render services to or for such agency in exchange for a charge reasonably calculated to cover the cost of rendering such service. This authority is to be limited to services voluntarily rendered and voluntarily received and shall not apply to services required by statute, rule, and regulations, or standards promulgated pursuant to this act or chapter 1, title 39, Idaho Code.
5. All moneys or payment received or collected by gift, grant, devise, or any other way shall be deposited to the respective division or subaccount of the public health district in the public health district fund authorized by section 39-422, Idaho Code.
6. To establish a fiscal control policy required by the state controller.
7. To cooperate with the state board of health and welfare, the department of health and welfare, the board of environmental quality and the department of environmental quality.
8. To enter into contracts with other governmental agencies, and this act hereby authorizes such other agencies to enter into contracts with the health district, as may be deemed necessary to fulfill the duties imposed upon the district in providing for the health of the citizens within the district.
9. To purchase, exchange or sell real property and construct, rent, or lease such buildings as may be required for the accomplishment of the duties imposed upon the district and to further obtain such other personal property as may be necessary to its functions.
10. To accept, receive and utilize any gifts, grants, or funds and personal and real property that may be donated to it for the fulfillment of the purposes outlined in this act.
11. To establish a charge whereby the board agrees to render services to or for entities other than governmental or public agencies for an amount reasonably calculated to cover the cost of rendering such service.
12. To enter into a lease of real or personal property as lessor or lessee, or other transaction with the Idaho health facilities authority for a term not to exceed ninety-nine (99) years upon a determination by the district board that the real or personal property to be leased is necessary for the purposes of the district, and to pledge nontax revenues of the district to secure the district's obligations under such leases. For the purposes of this chapter, a public health district is not a subdivision of the state and shall be considered an independent body corporate and politic pursuant to section 1, article VIII, of the constitution of the state of Idaho, and is not authorized hereby to levy taxes nor to obligate the state of Idaho concerning such financing.
13. To administer and certify solid waste disposal site operations, closure, and post closure procedures established by statute or regulation in accordance with provisions of chapter 74, title 39, Idaho Code, in a manner equivalent to the site certification process set forth in section 39-7408, Idaho Code.
14. To select a board member to serve as trustee on the board of trustees of the Idaho district boards of health.



### **39-414a. Audit Of Health District Finances.**

It shall be the duty of each district board of health to cause to be made a full and complete audit of all the financial transactions of the health district no less frequently than every two (2) years. Such audit shall be made by or under the direction of the legislative council, in accordance with generally accepted auditing standards and procedures. The district board of health shall include all necessary expenses for such audit in its budget.

### **39-415. Quarantine.**

The district board shall have the same authority, responsibility, powers, and duties in relation to the right of quarantine within the public health district as does the state.

### **39-416. Rules Adopted By District Board — Procedure.**

1. The district board by the affirmative vote of a majority of its members may adopt, amend or rescind rules and standards as it deems necessary to carry out the purposes and provisions of this act.
2. Every rule or standard adopted, amended, or rescinded by the district board shall be done in a manner conforming to the provisions of chapter 52, title 67, Idaho Code.
3. At the same time that proposed rules are transmitted to the director of legislative services, they shall be submitted for review and comment to the board of county commissioners of each county within the public health district's jurisdiction. If the rules relate to environmental protection or programs administered by the department of environmental quality, the rules shall also be submitted for review and comment to the state board of environmental quality. All other rules that do not relate to environmental protection or programs administered by the department of environmental quality shall be submitted for review and comment to the state board of health and welfare. The state board of health and welfare, or the state board of environmental quality, shall, within seventy-five (75) days of receipt of a district board's proposed rules, disapprove of the adoption of the rules if, on the advice of the attorney general, such rules would be in conflict with state laws or rules. The state board of health and welfare, or the state board of environmental quality, shall immediately advise the district board as to the reason for the disapproval.
4. This section does not apply to measures adopted for the internal operation of the district board or for federal programs where the regulations are established by the federal government but shall apply to all measures affecting the public at large or any identifiable segment thereof.
5. Public health districts shall have all proposed rules regarding environmental protection or programs administered by the department of environmental quality submitted for review and comment to the state board of environmental quality and such rules must be approved by adoption of a concurrent resolution by both houses of the legislature or such rules shall expire at the conclusion of a regular session of the legislature. It is the intent of the legislature that standards and rules relating to subsurface sewage systems, wastewater treatment, sewage systems and water quality be consistent statewide.



### **39-417. Hearings By District Board — Oaths — Witnesses — Subpoenas.**

1. Any person, association, public or private agency, corporation, or the district director alleging a violation of this act, the rules promulgated thereunder, or any matter within the jurisdiction of the district board, or any alleged violator thereof, may, pursuant to the provisions of chapter 52, title 67, Idaho Code, and the rules promulgated thereunder by the state board of health and welfare or the board of environmental quality, seek a hearing before the district board and/or such other relief or remedy as is provided or available.
2. The hearings herein provided may be conducted by the district board or by its designated agent and in either case the district board or its agent shall have the same powers and authority set out in subsection (3) of section 39-107, Idaho Code. The provisions of this section shall not apply to the internal administrative affairs of the district board or department nor to its subordinate sections and units.

### **39-418. Judicial Review Of District Board's Determination — Exclusive Procedure.**

1. Judicial review of a final determination of the district board may be secured by any person adversely affected thereby by filing a petition for review as prescribed by chapter 52, title 67, Idaho Code, in the district court of the county wherein he lives within thirty (30) days after receipt of notice of the district board's final determination. The petition for review shall be served upon the district health director and the director of the department of health and welfare of the state of Idaho. The director may appear in any such hearing as a matter of right. Such service shall be jurisdictional and the provisions of this section shall be the exclusive procedure for appeal or review.
2. If no appeal or review is sought within the time prescribed in (1) above, the final determination of the district board shall be conclusive as to factual matters decided therein and not subject to collateral attack in any proceeding to enforce its provisions.

### **39-419. Violation Of Public Health Laws — Misdemeanor — Civil Liability For Expense.**

1. It shall be unlawful for any person, association, or corporation, and the officers thereof to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, regulation, or ordinance issued pursuant thereto; or
2. Any person, association, or corporation, or the officers thereof, violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars (\$300), or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment. In addition to fine and imprisonment, any person, association or corporation, or the officers thereof, found to be in violation of this act or the rules promulgated thereunder shall be liable for any expense incurred by the district board of health in enforcing this act, or in removing or terminating any nuisance, source of filth, cause of sickness, or health hazard. Conviction under the penalty provisions of this act or any other health law or rules promulgated thereunder shall not relieve any person from any civil action in damages that may exist for any injury resulting from any violation of the public health laws or rules promulgated by the district board of health.
3. A violator of any law or rule within the jurisdiction of the district shall be liable in an amount not in excess of the limits prescribed in section 39-108, Idaho Code. The district board may seek recovery by commencing an action in the district court of the county wherein the violation occurred. Amounts recovered shall be deposited as required by the provisions of section 39-414(5), Idaho Code.

### **39-420. Civil Actions By District Board — Enforcement Of Act — Abatement Of Nuisances.**

The district board in its name shall commence and maintain all proper and necessary civil actions and proceedings to enforce the provisions of this act and the preservation and protection of the public and is specifically directed to abate nuisances when necessary for the purpose of elimination of sources of filth, infestations, infections, communicable diseases, health hazards, and conditions not compatible with the preservation and protection of the public health. Enforcement of a final determination of the district board shall be commenced by filing an action in the district court, by any party to the board action, the board, or the director, and the introduction of the final determination.

### **39-421. Special Counsel Of District Board.**

The district board is hereby authorized to engage special counsel to defend it and the members in all action and proceedings brought against it or them with respect to their official duties hereunder. In addition, such special counsel may bring any civil action requested by the district board. The special counsel may request the prosecuting attorney of any county within the district for appointment as special prosecutor to assist in prosecuting any alleged violations of any of the provisions of this chapter which occurred within such county. Upon receipt of such request, the prosecutor of such county may forthwith designate the district's special counsel as special prosecutor to assist in prosecuting the alleged offender, and such special counsel shall have all the powers of a prosecuting attorney while acting as special prosecuting attorney. Compensation of such special counsel for acting as special prosecutor shall be paid by the district and subject to recovery as provided in section 39-419, Idaho Code.

### **39-422. Public Health District Fund — Establishment — Divisions — Fiscal Officer — Expenditures.**

1. There is hereby authorized and established in the state treasury a special fund to be known as the public health district fund for which the state treasurer shall be custodian. Within the public health district fund there shall be seven (7) divisions, one (1) for each of the seven (7) public health districts. Each division within the fund will be under the exclusive control of its respective district board of health and no moneys shall be withdrawn from such division of the fund unless authorized by the district board of health or its authorized agent.
2. The procedure for the deposit and expenditure of moneys from the public health district fund will be in accordance with procedures established between all district boards and the state controller. All income and receipts received by the districts shall be deposited in the public health district fund.
3. Claims against the divisions of the health district fund are not claims against the state of Idaho. Claims against an individual health district are limited to that district's division moneys.



### 39-423. Budget Committee Of Public Health District.

The chairmen of the boards of county commissioners located within the public health district are hereby constituted as the budget committee of the public health district.

The district board will submit to the budget committee by the first Monday in June of each year the preliminary budget for the public health district and the estimated cost to each county, as determined by the provisions of section 39-424, Idaho Code.

On or before the first Monday in July, there will be held at a time and place determined by the budget committee a budget committee meeting and public hearing upon the proposed budget of the district. Notice of the budget committee meeting and public hearing 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 public health district to be determined by the district board of health. A copy of such notice shall also be published in the official newspaper or a generally circulated newspaper of each county of such public health 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 summary of such proposed budget shall be published with and as a part of the publication of such notice of hearing in substantially the form required by section 31-1604, Idaho Code.

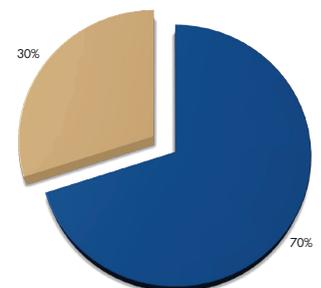
On or before the first Monday in July a budget for the public health district shall be agreed upon and approved by a majority of the budget committee. Such determination shall be binding upon all counties within the district and the district itself.



### 39-424. Cost Of Maintenance Of District — Apportionment To Member Counties.

The manner of apportioning the contributions of the counties as part of the budget of the health district, created pursuant to section 39-423, Idaho Code, shall be as follows:

1. Seventy percent (70%) of the amount to be contributed by the counties shall be apportioned among the various counties within the health district on the basis of population. The proportion of the total population of each county as compared to the total population of the health district shall be the proportion by which such county shall share in the contribution of county funds for the maintenance of the health district, pursuant to this subsection. The population will be determined by the last general census when applicable. When a general census number is not applicable, population shall be estimated for each county by the state department of commerce and such estimated population number shall be certified to each health district by not later than April 1.
2. Thirty percent (30%) of the amount to be contributed by the counties shall be apportioned among the counties within the district on the basis of taxable market value for assessment purposes. The proportion of the total taxable market value for assessment purposes of each county as compared to the total taxable market value for assessment purposes of the health district shall be the proportion by which such county shall share in the contribution of funds for the maintenance of the health district, pursuant to this subsection. Total taxable market value for assessment purposes shall mean the total taxable market value for assessment purposes as computed by the county assessor for the preceding full calendar year. Taxable market value for each county shall be certified to the health districts by the state tax commission for the preceding year.



### **39-425. General State Aid To Districts — Procedures.**

1. Every year, the districts shall submit a request to the legislature for money to be used to match funds contributed by the counties pursuant to section 31-862, Idaho Code, for the maintenance and operation of district health departments. The matching amount to be included in the request shall be a minimum of sixty-seven percent (67%) of the amounts pledged by each county, as adopted as part of the budget for the health districts during the budget formulations, as provided for in section 39-423, Idaho Code. If the determined amount of participation by a county would exceed the amount which could be raised applying the maximum levy prescribed in section 31-862, Idaho Code, that county's participation shall be reduced to the maximum amount which can be raised thereby.
2. The foregoing provision shall not limit the legislature from authorizing or granting additional funds for selected projects in excess of the percentage of participation of general aid granted all health districts.
3. General state aid to the various health districts shall be made available from state appropriations, and shall be distributed in the following manner:
  - a. The amount appropriated to the health districts shall be divided based upon the formula developed and administered by the board of trustees of the Idaho district boards of health.
  - b. One-half (1/2) of the amount appropriated shall be remitted to the public health trust fund on or before July 15; and
  - c. The remaining one-half (1/2) of the amount appropriated shall be remitted to the public health trust fund on or before January 15.
4. The liability of the state of Idaho to the public health districts and the public health district fund and its divisions is limited to:
  - a. The funds actually authorized and granted to the various public health districts as provided in subsection (1) of this section; and
  - b. The funds actually authorized or granted to the various public health districts as provided for in subsection (2) of this section; and
  - c. The funds due the various health districts in payment of legally authorized contracts and agreements entered into between the departments of the state of Idaho and the various public health districts.
5. If revenues to the state treasury are insufficient to fully meet appropriations, and reductions in spending authority have been ordered pursuant to law, the amount of moneys to match revenues contributed by the counties, pursuant to section 39-423, Idaho Code, which has been appropriated pursuant to this section, shall be reduced by the same percentage rate as other general account appropriations.

### **39-426. Public Employees Retirement System.**

All public health districts shall budget sufficient funds to allow for participation in the Idaho public employees retirement system as created by chapter 13, title 59, Idaho Code.



# **IDAPA 41 Title 02 Chapter 01**

## **41.02.01 — Rules Governing Health District Fees**

### **000. Legal Authority (Rule 0)**

This chapter is adopted under the legal authority of Sections 39-414(1), 39-414(11), and 39-416, Idaho Code. The public health districts are statutorily responsible for providing health services to the public. The public health districts are also statutorily entitled to adopt fees and charges for the services they render. The public health districts therefore find that it is reasonably necessary to adopt these rules to enable them to charge fees for the services they render in order to protect the public health, safety, and welfare, and to comply with the requirements of federal, state, and local laws, rules, and regulations. (1-26-94)

### **001. Title and Scope (Rule 1)**

These rules shall be cited in full as Idaho Public Health District Rules, IDAPA 41.02.01, “Rules Governing Health District Fees.” (1-26-94)

### **002. Written Interpretations (Rule 2)**

Written interpretations to these rules may be available in the form of explanatory comments from the individual public health districts. (1-26-94)

### **003. Administrative Appeal (Rule 3)**

All appeals of the administrative requirements under these rules shall be governed by the public health district rules governing contested cases. (1-26-94)

### **004. Public Records Act Compliance (Rule 4)**

Public inspection and entitlement to documents prepared pursuant to this chapter are as provided by state statutes. (1-26-94)

### **005. Definitions (Rule 5)**

As used in this chapter: (1-26-94)

1. Director. The director of a public health district created and appointed pursuant to Chapter 4, Title 39, Idaho Code. (1-26-94)
2. District Board. The district board of health of each public health district created and appointed pursuant to Chapter 4, Title 39, Idaho Code. (1-26-94)
3. Public Health District. The districts created and designated pursuant to Chapter 4, Title 39, Idaho Code. (1-26-94)
4. Rules Governing Contested Cases. The rules that govern appeals or contested cases adopted by the districts pursuant to the Administrative Procedures Act, Chapter 52, Title 67, Idaho Code. (1-26-94)

### **006. Citation (Rule 6)**

The official citation of this chapter is IDAPA 41.02.01.000 et seq. For example, this section’s citation is IDAPA 41.02.01.006. (1-26-94)

### **007. — 008. (Reserved)**



### **009. Effective Date (Rule 9)**

This rule shall be effective immediately. (1-26-94)

### **010. Assessment of Fees or Changes for Services Rendered (Rule 10)**

Under the authority of Section 39-416(11), Idaho Code, the public health districts are empowered to establish reasonable charges or fees for services rendered to the members of the public in an amount calculated to cover the costs of rendering such services. (1-26-94)

### **011. Fees or Charges for Services Under Programs (Rule 11)**

Each public health district may adopt charges or fees for services provided consisting of screening, education, consultation, record keeping, evaluation, assessment, referral, permitting, inspection, survey, and treatment as appropriate in the physical health, environmental health, health education, and other programs which they administer including, but not limited to, adult health, AIDS/HIV, child health/adolescent health, communicable diseases, day care, immunization, perinatal services, primary care, reproductive health, risk reduction, school health, sexually transmitted diseases, training and continuing education, monitoring and inspection programs, public health information records development and maintenance, and such other health-related programs which serve specific beneficiaries or which address specific legal responsibilities as may be approved by the respective district board of health from time to time. Such fees or charges shall not conflict with those established by superseding state rule. (1-26-94)

### **012. Designation and Amount of Fees (Rule 12)**

The adoption by a public health district of a specific fee for services shall be based upon the actual cost of providing the service. The actual cost of providing the service shall be derived from personnel costs (salary and benefits), indirect costs rate formula as approved by the State Controller, and operating expenditures in providing the service. The maximum charge or fee applied to any service shall not exceed the actual cost of providing the service. The charge or fee schedule for a service shall be posted in a conspicuous place where the service is rendered. (1-26-94)

### **013. Adoption of Fees or Charges (Rule 13)**

The adoption of a fee or charge for a specific service and the amount of the fee or charge shall be by resolution of the district board at a properly noticed public meeting after review of evidence establishing the necessity for a fee and the amount of the fee. In the event of one-time or occasional activities where a direct and specific benefit is provided to identifiable individuals, the director of the district may establish a reasonable charge consistent with the principles set forth herein, provided that any individual may appeal any fee so established within ninety (90) days after the date of payment pursuant to the district's rules governing contested cases. (1-26-94)

### **014. Federal, State, and Local Mandates (Rule 14)**

When mandated by federal, state, or local laws, rules, regulations, or contracts, a charge or fee may be reduced based upon a sliding fee scale based upon indigency as set forth by federal guidelines for services rendered. Where mandated by federal, state, or local laws, rules, regulations, or contracts, persons will not be refused services for their inability to pay a fee or charge. (1-26-94)

### **015. Severability (Rule 15)**

The rules contained in public health district rule, IDAPA 41.02.01, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not effect the validity of the remaining portions of this chapter. (1-26-94)

### **016. — 999. (Reserved)**

## **IDAPA 41 Title 08 Chapter 01**

### **41.08.01 — Rules Governing Appeal from Administrative Decision and Request for Hearing**

#### **000. Legal Authority**

Title 39, Chapter 4 and Title 39, Chapter 36, Idaho Code, grants authority to Public Health Districts to adopt rules, regulations and standards to protect the environment and health of the Public Health Districts. (7-1-98)

#### **001. Title and Scope**

1. Title. These rules shall be known as Public Health District, “Appeal from Administrative Decision and Request for Hearing,” IDAPA 41.08.01. (7-1-98)
2. Scope. The provisions of these rules establish the procedure for appeal from administrative decision and request for hearing. (7-1-98)

#### **002. Written Interpretations**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter. (7-1-98)

#### **003. Definitions**

1. Board Of Health. Means the Board of Health for Public Health Districts 2, 3, 4, 5, 6, and 7. (7-1-98)
2. District Director. Means the District Director of Public Health Districts 2, 3, 4, 5, 6, and 7. (7-1-98)
3. District Health Department. Means the jurisdictional public health district as defined in Section 39-408, Idaho Code. (7-1-98)
4. Division Director. Means any of the Division Directors for Public Health Districts 2, 3, 4, 5, 6, and 7. (7-1-98)
5. Record. Means the Hearing Record as cited in IDAPA 16, Title 05, Chapter 03, Subsection 100.08. The Board, Director, or Hearing Officer and the Hearing Coordinator must arrange for a record to be made of the contested case hearing. The record must be a verbatim record and it shall be magnetically recorded by two (2) recording devices, unless a Party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of hearing. The record shall be transcribed at the expense of the Party requesting a transcription and prepayment or guarantee of payment may be required. Once a transcription is requested, any Party may obtain a copy at the Party’s own expense. The recorded proceedings will be provided to the Hearings Coordinator for inclusion into the record. The Department shall maintain an official record of each contested case for a period of not less than six (6) months after the expiration of the last date for judicial review, unless otherwise provided by law. The record shall include all notices of proceedings, pleadings, motions, briefs, petitions and intermediate rulings, evidence received or considered, any oral or written statements allowed by the hearing officer, statement of matters officially noticed, offers of proof and objections and rulings thereon, the recording of the proceedings or any transcript of all or part of the proceedings, staff memoranda or data submitted to the hearing authority in connection with the proceedings, and any recommended order, preliminary order, final order or order on reconsideration. (7-1-98)
6. Staff Member. Means any of the staff members of Public Health Districts 2, 3, 4, 5, 6, and 7. (7-1-98)
7. Supervisor. Means any of the supervisors of Public Health Districts 2, 3, 4, 5, 6, and 7. (7-1-98)



## 004. Applicability

These rules are applicable to the citizens and district health departments of Public Health Districts 2, 3, 4, 5, 6, and 7. (7-1-98)

## 005. — 010. (Reserved)

## 011. Appeal of Staff Member Decision

1. Citizen Appeal. Any citizen aggrieved by a decision made by a staff member of the District Health Department may submit an administrative appeal to the District Health Department supervisor for review. (7-1-98)
2. Limitation of Time Periods. The individual program rules for time limitations within which certain actions must be taken or documents filed shall be followed.  
In the event there is no provision in the Idaho Code or other specific rule, a party shall have thirty-five (35) days from the receipt of an adverse order or notice of decision to file an appeal of any adverse order or notice of decision. (7-1-98)
3. Format for Appeal. All administrative appeals shall be made in writing, and shall contain the following information: (7-1-98)
  - a. The nature of the decision upon which the appeal is brought, including the code, ordinance, rule, or policy cited by the Staff Member to support the decision. (7-1-98)
  - b. The ruling or decision desired by the appellant. (7-1-98)
  - c. A statement identifying the code, ordinance, rule, or policy which supports the citizen's position. (7-1-98)
  - d. The reason(s) why the citizen believes the code, ordinance, rule or policy has been misapplied. (7-1-98)

## 012. Basis for Appeal of Staff Member Decision

4. Supervisor or Division Director Role. Each appeal request shall be submitted to a supervisor or Division Director who shall determine whether the issue raised is tied to application of a statute, policy, or rule administered by the District Health Department, or whether the issue involves the substance of any statute, policy or rule. (7-1-98)
5. Criteria for Appeal. An appeal is appropriate only in the instance of alleged misapplication of a state or health district statute, rule or policy. (7-1-98)

## 013. Procedure for Appeal of Staff Member Decision

1. Hearing Schedule. Within five (5) days of receipt of an administrative appeal, the staff member whose decision is being appealed shall assist the citizen to schedule a hearing before the supervisor or Division Director as soon as the appeal can be accommodated. (7-1-98)
2. Fee. No fee shall be charged to any appeal applicant whose case shall be brought before the supervisor or Division Director. (7-1-98)
3. Staff Member Representation. The staff member whose decision has been challenged shall be present. (7-1-98)
4. Length of Presentations. Presentations shall be limited to ten (10) minutes for each citizen and ten (10) minutes for the staff member, unless extraordinary circumstances require otherwise as determined by the supervisor or Division Director. (7-1-98)
5. Reports. The staff member or citizen may submit a written explanation for the supervisor's or Division Director's consideration prior to the start of the hearing. A copy of any staff member explanation shall be provided to the citizen at the time it is prepared for presentation to the supervisor or Division Director. (7-1-98)



#### 014. Review by the Supervisor or Division Director

1. Decision. Within five (5) days after hearing the request of a citizen, the supervisor or Division Director shall affirm the staff member's decision, reverse the decision, or affirm the decision conditionally. (7-1-98)
2. Format. The decision in any such appeal shall be made in writing and shall set forth the reasons thereof. (7-1-98)

#### 015. Appeal of the Supervisor's or Division Director's Decision

1. District Director Role. An appeal of the supervisor's or Division Director's decision may be taken to the District Director of the District Health Department, solely upon the record compiled in accordance with this procedure. (7-1-98)
2. Format. Said appeal may be accompanied by a written explanation of the basis for appeal, not exceeding two (2) typewritten pages. (7-1-98)
3. Options. The District Director may request more information or may schedule oral presentations, if desired. (7-1-98)

#### 016. Review by the District Director

1. Decision. Within five (5) days after reviewing the request of a citizen, the District Director shall affirm the supervisor's or Division Director's decision, reverse the decision, or affirm the decision conditionally. (7-1-98)
2. Format. The District Director's decision in any such appeal shall be made in writing and shall set forth the reasons thereof. (7-1-98)

#### 017. Appeal of the District Director's Decision

1. Board of Health Role. An appeal of the District Director's decision may be taken to the Board of Health of the District Health Department, solely upon the record compiled in accordance with this procedure. (7-1-98)
2. Format. Said appeal may be accompanied by a written explanation of the basis for appeal, not exceeding two (2) typewritten pages. (7-1-98)
3. Options. The Board may request more information or may schedule oral presentations, if desired. (7-1-98)
4. Final Agency Appeal. The Board of Health's decision shall be final in matters subject to the appeal procedure outlined herein. (7-1-98)

#### 018. Review by the Board of Health

1. Board of Health Decision. After reviewing the request of a citizen at the next scheduled board meeting after the request is received, within five (5) days the Board of Health shall affirm the District Director's decision, reverse the decision, or affirm the decision conditionally. (7-1-98)
2. Format. The Board of Health decision in any such appeal shall be made in writing and shall set forth the reasons thereof. (7-1-98)
3. Further Appeal. Further appeal outside the agency may be authorized by provisions of Idaho code and IDAPA. (7-1-98)

#### 019. — 999. (Reserved)



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