

IN THE SENATE

SENATE BILL NO. 1112

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO VACANCIES IN STATE OFFICE; AMENDING SECTION 59-904, IDAHO CODE,
2 TO PROVIDE WHENEVER AN APPOINTEE'S TERM HAS EXPIRED AS PRESCRIBED BY
3 LAW, THE GOVERNOR OR OTHER APPOINTING AUTHORITY SHALL REAPPOINT THE AP-
4 POINTEE TO THE POSITION WITHIN TWELVE MONTHS OF SUCH EXPIRATION OF TERM,
5 OR SUCH OFFICE WILL BE DECLARED VACANT IF CERTAIN EVENTS OCCUR BY THE
6 GOVERNOR OR THE APPOINTING AUTHORITY, TO PROVIDE FOR DOCUMENTATION TO
7 ACCOMPANY APPOINTMENTS, TO PROVIDE PROCEDURES AND TO MAKE A TECHNICAL
8 CORRECTION.
9

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

11 SECTION 1. That Section 59-904, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 59-904. STATE OFFICES -- VACANCIES, HOW FILLED AND CONFIRMED. (a) All
14 vacancies in any state office, and in the supreme and district courts, unless
15 otherwise provided for by law, shall be filled by appointment by the gover-
16 nor. Appointments to fill vacancies pursuant to this section shall be made
17 as provided in subsections (b), (c), (d), (e), and (f) and (g) of this sec-
18 tion, subject to the limitations prescribed in those subsections.

19 (b) Nominations and appointments to fill vacancies occurring in the of-
20 fice of lieutenant governor, state controller, state treasurer, superinten-
21 dent of public instruction, attorney general and secretary of state shall be
22 made by the governor, subject to the advice and consent of the senate, for
23 the balance of the term of office to which the predecessor of the person ap-
24 pointed was elected.

25 (c) Nominations and appointments to and vacancies in the following
26 listed offices shall be made or filled by the governor subject to the advice
27 and consent of the senate for the terms prescribed by law, or in case such
28 terms are not prescribed by law, then to serve at the pleasure of the gover-
29 nor:

30 Director of the department of administration,
31 Director of the department of finance,
32 Director of the department of insurance,
33 Director, department of agriculture,
34 Director of the department of water resources,
35 Director of the Idaho state police,
36 Director of the department of commerce,
37 Director of the department of labor,
38 Director of the department of environmental quality,
39 Director of the department of juvenile corrections,
40 Executive director of the commission of pardons and parole,
41 The state historic preservation officer,
42 The administrator of the division of human resources,

1 Member of the state tax commission,
2 Members of the board of regents of the university of Idaho and the state
3 board of education,
4 Members of the Idaho water resources board,
5 Members of the state fish and game commission,
6 Members of the Idaho transportation board,
7 Voting members of the state board of health and welfare,
8 Members of the board of environmental quality,
9 Members of the board of directors of state parks and recreation,
10 Members of the board of correction,
11 Members of the industrial commission,
12 Members of the Idaho public utilities commission,
13 Members of the Idaho personnel commission,
14 Members of the board of directors of the Idaho state retirement system,
15 Members of the board of directors of the state insurance fund,
16 Members of the commission of pardons and parole.

17 (d) Appointments made by the state board of land commissioners to the
18 office of director, department of lands, and appointments to fill vacancies
19 occurring in those offices shall be submitted by the president of the state
20 board of land commissioners to the senate for the advice and consent of the
21 senate in accordance with the procedure prescribed in this section.

22 (e) Appointments made pursuant to this section while the senate is in
23 session shall be submitted along with the letter of appointment to the sen-
24 ate forthwith for the advice and consent of that body. Appointments made
25 pursuant to this section while the senate is not in session shall be submit-
26 ted along with the letter of appointment to the senate pursuant to section
27 67-803, Idaho Code. Should the senate adjourn without granting its consent
28 to an appointment the appointment shall thereupon become void and a vacancy
29 in the office to which the appointment was made shall exist, and the office
30 shall be deemed vacant upon the date of adjournment. It is the duty of the ap-
31 pointing authority to supply the senate with the letter of appointment. The
32 appointee shall supply the senate with the documentation it requests.

33 All appointments made pursuant to subsection (c) of this section, ex-
34 cept those appointments for which a term of office is fixed by law, shall ter-
35 minate at the expiration of any gubernatorial term. Appointments to fill the
36 vacancies thus created by the expiration of the term of office of the gover-
37 nor shall be forthwith submitted to the senate for the advice and consent of
38 that body, and when so submitted shall be as expeditiously considered as pos-
39 sible.

40 Upon receipt of an appointment along with the letter of appointment in
41 the senate for the purpose of securing the advice and consent of the sen-
42 ate, the appointment shall be referred by the presiding officer to the appro-
43 priate committee of the senate for consideration and report prior to action
44 thereon by the full senate.

45 (f) Excepting the appointments made pursuant to subsection (c) of this
46 section, whenever an appointee's term has expired as prescribed by law,
47 the governor or the authorized appointing authority must fill the position
48 within twelve (12) months of the expiration of the term. However, an of-
49 fice will be vacant if the governor or the authorized appointing authority:
50 (i) fails to timely appoint a qualified person at the earlier of the time

1 required by law or required in this subsection; or (ii) fails to provide
2 the senate with an appropriate letter or document of appointment by the
3 thirty-sixth legislative day of the subsequent legislative session. All
4 letters or documents of appointment must, as reasonably possible, accompany
5 the additional documentation required by the senate. At the request of the
6 secretary of the senate, the governor or the authorized appointing authority
7 must provide the additional documentation.

8 (g) It is the intent of the legislature that the provisions of this sec-
9 tion as amended by this chapter shall not apply to appointments which have
10 been made prior to the effective date of this chapter. It is the further in-
11 tent of the legislature that the provisions of this section shall apply to
12 the offices listed in this section and to any office created by law or exec-
13 utive order which succeeds to the powers, duties, responsibilities and au-
14 thorities of any of the offices listed in subsections (c) and (d) of this sec-
15 tion.