

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 189

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO USE OF PUBLIC FUNDS IN ELECTIONS; AMENDING TITLE 74, IDAHO CODE,
2 BY THE ADDITION OF A NEW CHAPTER 6, TITLE 74, IDAHO CODE, TO PROVIDE
3 A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO PROHIBIT THE USE OF
4 PUBLIC FUNDS IN ELECTIONS, TO PROVIDE FOR VIOLATIONS, TO PROVIDE FOR A
5 CHALLENGE ON THE VALIDITY OF AN ELECTION AND TO PROVIDE FOR AN APPEAL ON
6 JUDGMENT.
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 74, Idaho Code, be, and the same is hereby amended
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
11 ter 6, Title 74, Idaho Code, and to read as follows:

12 CHAPTER 6

13 GOVERNMENT NONINTERFERENCE IN ELECTIONS ACT

14 74-601. SHORT TITLE. This act shall be known and may be cited as the
15 "Government Noninterference in Elections Act."

16 74-602. LEGISLATIVE INTENT. The legislature finds that it is against
17 public policy for public funds, resources or property to be used to influence
18 the outcome at the ballot box. The legislature also finds that using public
19 funds or resources to advocate particular outcomes is contrary to the prin-
20 ciples of our republican form of government in protecting individual thought
21 rather than perpetuating government as its own special interest.

22 74-603. PUBLIC FUNDS IN ELECTIONS PROHIBITED. (1) No public funds,
23 resources or property may be used by a government entity, its officers, em-
24 ployees or agents in supporting, opposing, promoting, advertising or in any
25 other way intervening or interfering in the election of any candidate, mea-
26 sure, bond, levy or question appearing on a ballot, except as provided in
27 subsection (2) of this section. This does not prohibit individuals from us-
28 ing public grounds or facilities that are available to the general public for
29 political purposes.

30 (2) Use of public funds, resources or property used to promote or adver-
31 tise an election shall be limited to:

32 (a) Advertising the fact that an election is to be held, as required by
33 law;

34 (b) Placing notices about the election on an official government web-
35 site and social media platform, or in a newspaper, with such notices be-
36 ing limited to:

37 (i) When and where the election is to be held;

38 (ii) Names of the candidates on the ballot;

1 (iii) For bond, levy or any other tax election, the amount of taxes
2 to be collected, interest rate, duration, a neutral and concise
3 explanation of the purpose of the tax, and the estimated monetary
4 impact of the tax on the taxpayer. For property tax proposals,
5 this shall also include the expected cost per one hundred thou-
6 sand dollars (\$100,000) of taxable value and the current tax per
7 one hundred thousand dollars (\$100,000) of taxable value; and

8 (iv) The formulation and publication of statements regarding pro-
9 posed amendments to the state constitution, as authorized by sec-
10 tions 67-453 and 34-1812C, Idaho Code;

11 (c) Activities described in section 34-1406, Idaho Code.

12 74-604. VIOLATIONS. (1) The attorney general shall have the duty to
13 enforce this chapter in relation to public agencies of state government and
14 county elected officials, and the prosecuting attorneys of the various coun-
15 ties shall have the duty to enforce this act in relation to local public agen-
16 cies within their respective jurisdictions. In the event that there is rea-
17 son to believe that a violation of the provisions of this act has been com-
18 mitted by members of a board of county commissioners or, for any other rea-
19 son, a county prosecuting attorney is deemed disqualified from proceeding to
20 enforce this act, the prosecuting attorney or board of county commissioners
21 shall seek to have a special prosecutor appointed for that purpose as pro-
22 vided in section 31-2603, Idaho Code.

23 (2) A public official in violation of this chapter is guilty of a misde-
24 meanor and may be fined up to one thousand dollars (\$1,000).

25 74-605. VALIDITY OF ELECTION CHALLENGED. Whenever the attorney gen-
26 eral, county prosecutor or special prosecutor has determined that this chap-
27 ter has been violated, and such violation aided in the election of a candi-
28 date, the approval or disapproval of a measure, the passage of a bond, levy
29 or any other tax or question, a taxpayer or qualified elector, as the case may
30 be, of the jurisdiction where the violation occurred shall have standing to
31 file, or cause to be filed, a petition in the district court in and for the
32 judicial district in which the political subdivision is located wholly or in
33 part, praying a judicial examination and determination of the validity of
34 the election. The court shall hold hearings as necessary to examine the ex-
35 tent of the governmental interference in the election. The court shall take
36 into account the amount of time, money and other resources utilized in viola-
37 tion of this chapter and shall render a judgment and decree either declaring
38 the election valid or that the election is null, void and of no force or ef-
39 fect.

40 74-606. APPEAL OF JUDGMENT. Appeal of the judgment of the court may be
41 had as in other civil cases as provided by court rule.