

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 428

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PUBLIC SCHOOLS; AMENDING SECTION 33-507, IDAHO CODE, TO REVISE
2 AUTHORITY OF TRUSTEES OF SCHOOL DISTRICTS REGARDING THE EMPLOYMENT OF
3 A SPOUSE AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-514A,
4 IDAHO CODE, TO PROVIDE AN ADDITIONAL GROUND WHEN A CATEGORY 1 LIMITED
5 CONTRACT MAY BE ISSUED; AND AMENDING SECTION 33-5204, IDAHO CODE, TO RE-
6 VISE AUTHORITY OF THE BOARD OF DIRECTORS OF A PUBLIC CHARTER SCHOOL RE-
7 GARDING THE EMPLOYMENT OF A SPOUSE AND TO MAKE TECHNICAL CORRECTIONS.
8

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

10 SECTION 1. That Section 33-507, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 33-507. LIMITATION UPON AUTHORITY OF TRUSTEES. (1) It shall be unlaw-
13 ful for any trustee to have pecuniary interest directly or indirectly in any
14 contract or other transaction pertaining to the maintenance or conduct of
15 the school district, or to accept any reward or compensation for services
16 rendered as a trustee except as may be otherwise provided in this section.
17 The board of trustees of a school district may accept and award contracts in-
18 volving the school district to businesses in which a trustee or a person re-
19 lated to him by blood or marriage within the second degree has a direct or
20 indirect interest provided that the procedures set forth in section 18-1361
21 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or accep-
22 tance of moneys of a school district for deposit in any bank or trust company,
23 or the lending of money by any bank or trust company to any school district,
24 shall not be deemed to be a contract pertaining to the maintenance or conduct
25 of a school district within the meaning of this section; nor shall the pay-
26 ment by any school district board of trustees of compensation to any bank or
27 trust company, for services rendered in the transaction of any banking busi-
28 ness with such district board of trustees, be deemed the payment of any re-
29 ward or compensation to any officer or director of any such bank or trust com-
30 pany within the meaning of this section.

31 (2) It shall be unlawful for the board of trustees of any class of school
32 district to enter into or execute any contract with the spouse of any member
33 of such board, the terms of which said contract requires, or will require,
34 the payment or delivery of any school district funds, money or property to
35 such spouse, except as provided in section 18-1361 or 18-1361A, Idaho Code.

36 (3) No spouse of any trustee may be employed by a school district with
37 a fall student enrollment population of greater than one thousand two hun-
38 dred (1,200) in the prior school year. For school districts with a fall stu-
39 dent enrollment population of one thousand two hundred (1,200) or less in the
40 prior school year, such spouse may be employed in a nonadministrative posi-
41 tion for a school year if each of the following conditions has been met:

1 (a) The position has been listed as open for application on the school
 2 district website for at least sixty (60) days, unless the opening oc-
 3 curring during the school year, in which case the position shall be so
 4 listed for at least fifteen (15) days;

5 (b) No applications were received that met the minimum certification,
 6 endorsement, education or experience requirements of the position,
 7 other than such spouse;

8 (c) The trustee abstained from voting in the employment of the spouse
 9 and was absent from the meeting while such employment was being consid-
 10 ered and determined.

11 The school district may employ such spouse for further school years, pro-
 12 vided that the conditions contained in this subsection are met for each
 13 school year in which such spouse is employed. The trustee shall abstain from
 14 voting in any decisions affecting the compensation, benefits, individual
 15 performance evaluation or disciplinary action related to the spouse and
 16 shall be absent from the meeting while such issues are being considered and
 17 determined. Any spouse of a trustee employed as a certificated employee
 18 pursuant to this subsection shall be employed under a category 1 contract
 19 pursuant to section 33-514A, Idaho Code.

20 (4) When any relative of any trustee or relative of the spouse of a
 21 trustee related by affinity or consanguinity within the second degree is
 22 considered for employment in a school district, such trustee shall abstain
 23 from voting in the election of such relative, and shall be absent from the
 24 meeting while such employment is being considered and determined.

25 SECTION 2. That Section 33-514A, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 33-514A. ISSUANCE OF LIMITED CONTRACT -- CATEGORY 1 CONTRACT. After
 28 August 1, or pursuant to section 33-507(3), Idaho Code, the board of trustees
 29 may exercise the option of employing certified personnel on a one (1) year
 30 limited contract, which may also be referred to as a category 1 contract con-
 31 sistent with the provisions of section 33-514, Idaho Code. Such a contract
 32 is specifically offered for the limited duration of the ensuing school year,
 33 and no further notice is required by the district to terminate the contract
 34 at the conclusion of the contract year.

35 SECTION 3. That Section 33-5204, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 33-5204. NONPROFIT CORPORATION -- LIABILITY -- INSURANCE. (1) A pub-
 38 lic charter school shall be organized and managed under the Idaho nonprofit
 39 corporation act. The board of directors of a public charter school shall
 40 be deemed public agents authorized by a public school district, the pub-
 41 lic charter school commission, or the state board of education to control
 42 the public charter school, but shall function independently of any school
 43 board of trustees in any school district in which the public charter school
 44 is located, or independently of the public charter school commission ex-
 45 cept as provided in the charter. For the purposes of section 59-1302(15),
 46 Idaho Code, a public charter school created pursuant to this chapter shall
 47 be deemed a governmental entity. Pursuant to the provisions of section

1 63-36220, Idaho Code, sales to or purchases by a public charter school are
2 exempt from payment of the sales and use tax. A public charter school and the
3 board of directors of a public charter school are subject to the provisions
4 of:

5 (a) Sections 18-1351 through 18-1362, Idaho Code, on bribery and cor-
6 rupt influence, except as provided by section 33-5204A(2), Idaho Code;

7 (b) Chapter 2, title 59, Idaho Code, on prohibitions against contracts
8 with officers;

9 (c) Chapter 7, title 59, Idaho Code, on ethics in government;

10 (d) Chapter 23, title 67, Idaho Code, on open public meetings; and

11 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records;

12 in the same manner that a traditional public school and the board of school
13 trustees of a school district are subject to those provisions.

14 (2) A public charter school may sue or be sued, purchase, receive, hold
15 and convey real and personal property for school purposes, and borrow money
16 for such purposes, to the same extent and on the same conditions as a tra-
17 ditional public school district, and its employees, directors and officers
18 shall enjoy the same immunities as employees, directors and officers of tra-
19 ditional public school districts and other public schools, including those
20 provided by chapter 9, title 6, Idaho Code. The authorized chartering entity
21 that approves a public school charter shall have no liability for the acts,
22 omissions, debts or other obligations of a public charter school, except as
23 may be provided in the charter. A local public school district shall have
24 no liability for the acts, omissions, debts or other obligations of a public
25 charter school located in its district that has been approved by an autho-
26 rized chartering entity other than the board of trustees of the local school
27 district.

28 (3) Nothing in this chapter shall prevent the board of directors of a
29 public charter school, operating as a nonprofit corporation, from borrow-
30 ing money to finance the purchase or lease of school building facilities,
31 equipment and furnishings of those school building facilities. Subject to
32 the terms of a contractual agreement between the board and a lender, noth-
33 ing herein shall prevent the board from using the facility, its equipment and
34 furnishings, as collateral for the loan.

35 (4) Public charter schools shall secure insurance for liability and
36 property loss.

37 (5) It shall be unlawful for:

38 (a) Any director to have pecuniary interest directly or indirectly in
39 any contract or other transaction pertaining to the maintenance or con-
40 duct of the authorized chartering entity and charter, or to accept any
41 reward or compensation for services rendered as a director except as may
42 be otherwise provided in this subsection ~~(5)~~. The board of directors
43 of a public charter school may accept and award contracts involving the
44 public charter school to businesses in which the director or a person
45 related to him by blood or marriage within the second degree has a direct
46 or indirect interest, provided that the procedures set forth in section
47 18-1361 or 18-1361A, Idaho Code, are followed. The receiving, solicit-
48 ing or acceptance of moneys of a public charter school for deposit in any
49 bank or trust company, or the lending of moneys by any bank or trust com-
50 pany to any public charter school, shall not be deemed to be a contract

1 pertaining to the maintenance or conduct of a public charter school and
2 authorized chartering entity within the meaning of this section; nor
3 shall the payment by any public charter school board of directors of
4 compensation to any bank or trust company for services rendered in the
5 transaction of any banking business with such public charter school
6 board of directors be deemed the payment of any reward or compensation
7 to any officer or director of any such bank or trust company within the
8 meaning of this section.

9 (b) The board of directors of any public charter school to enter into
10 or execute any contract with the spouse of any member of such board, the
11 terms of which said contract require, or will require, the payment or
12 delivery of any public charter school funds, moneys or property to such
13 spouse, except as provided in paragraph (c) of this subsection or in
14 section 18-1361 or 18-1361A, Idaho Code.

15 (c) No spouse of any director may be employed by a public charter school
16 physically located within the boundaries of a school district with a
17 fall student enrollment population of greater than one thousand two
18 hundred (1,200) in the prior school year. For public charter schools
19 physically located within the boundaries of a school district with a
20 fall student enrollment population of one thousand two hundred (1,200)
21 or less in the prior school year, such spouse may be employed in a non-
22 administrative position for a school year if each of the following
23 conditions has been met:

24 (i) The position has been listed as open for application on the
25 public charter school website for at least sixty (60) days, unless
26 the opening occurred during the school year, in which case the po-
27 sition shall be so listed for at least fifteen (15) days;

28 (ii) No applications were received that met the minimum certifi-
29 cation, endorsement, education or experience requirements of the
30 position, other than such spouse;

31 (iii) The director abstained from voting in the employment of the
32 spouse and was absent from the meeting while such employment was
33 being considered and determined.

34 The public charter school may employ such spouse for further school
35 years, provided that the conditions contained in this paragraph are
36 met for each school year in which such spouse is employed. The director
37 shall abstain from voting in any decisions affecting the compensation,
38 benefits, individual performance evaluation or disciplinary action
39 related to the spouse and shall be absent from the meeting while such
40 issues are being considered and determined. Any spouse of a director
41 employed as a certificated employee pursuant to this paragraph shall be
42 employed under a category 1 contract pursuant to section 33-514A, Idaho
43 Code.

44 (6) When any relative of any director or relative of the spouse of a di-
45 rector related by affinity or consanguinity within the second degree is to
46 be considered for employment in a public charter school, such director shall
47 abstain from voting in the election of such relative, and shall be absent
48 from the meeting while such employment is being considered and determined.