

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 620

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC OFFICIALS; AMENDING TITLE 74, IDAHO CODE, BY THE ADDI-
2 TION OF A NEW CHAPTER 6, TITLE 74, IDAHO CODE, TO PROVIDE FOR THE PUBLIC
3 INTEGRITY IN ELECTIONS ACT, TO PROVIDE A SHORT TITLE, TO PROVIDE LEG-
4 ISLATIVE INTENT, TO PROVIDE DEFINITIONS, TO PROHIBIT THE EXPENDITURE OF
5 PUBLIC FUNDS, PROPERTY OR RESOURCES TO ADVOCATE FOR OR AGAINST CANDI-
6 DATES OR CERTAIN BALLOT MEASURES, TO PROVIDE EXCEPTIONS AND TO PROVIDE
7 FOR REMEDIES FOR VIOLATIONS.
8

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

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

13 CHAPTER 6

14 PUBLIC INTEGRITY IN ELECTIONS ACT

15 74-601. SHORT TITLE. This act shall be known and may be cited as the
16 "Public Integrity in Elections Act."

17 74-602. LEGISLATIVE INTENT. The legislature finds that it is against
18 the public policy of the state of Idaho for public funds, resources or prop-
19 erty to be used to advocate for or against a candidate or ballot measure.

20 74-603. DEFINITIONS. As used in this chapter:

21 (1) (a) "Advocate" means to campaign for or against a candidate or the
22 outcome of a ballot measure.

23 (b) "Advocate" does not mean providing factual information about a bal-
24 lot measure and the public entity's reason for the ballot measure stated
25 in a factually neutral manner. Factual information includes, but is not
26 limited to, the cost of indebtedness, intended purpose, condition of
27 property to be addressed, date and location of election, qualifications
28 of candidates or other applicable information necessary to provide
29 transparency to electors.

30 (2) "Ballot measure" means constitutional amendments, bond measures or
31 levy measures.

32 (3) "Candidate" means and includes every person for whom it is contem-
33 plated or desired that votes be cast at any political convention, primary,
34 general, local or special election and who either tacitly or expressly con-
35 sents to be so considered.

36 (4) "Expenditure" means:

37 (a) A purchase, payment, donation, distribution, loan, advance, de-
38 posit, gift of money, or anything of value; or

1 (b) A legally enforceable contract, promise or agreement to make any
 2 purchase, payment, donation, distribution, loan, advance, deposit,
 3 gift of money, or anything of value.

4 (5) "Property or resources" means goods, services, equipment, computer
 5 software and hardware, other items of intangible property, or facilities
 6 provided to or for the benefit of a candidate, a candidate's personal cam-
 7 paign committee, a political issues committee for political purposes, or
 8 advocacy for or against a ballot measure or candidate. Public property or
 9 resources that are available to the general public are exempt from this ex-
 10 clusion.

11 (6) "Public entity" means the state, each state agency, county, munic-
 12 ipality, school district or other taxing district or public corporation em-
 13 powered to submit ballot measures to its electors.

14 (7) "Public funds" means any money received by a public entity from ap-
 15 propriations, taxes, fees, interest or other returns on investment.

16 (8) "Public official" means an elected or appointed member of a public
 17 entity who has:

18 (a) Authority to make or determine public policy;

19 (b) Supervisory authority over the personnel and affairs of a public
 20 entity; or

21 (c) Authority to approve the expenditure of funds for the public en-
 22 tity.

23 (9) "State agency" means each department, commission, board, council,
 24 agency, institution, officer, corporation, fund, division, office, commit-
 25 tee, authority or other administrative unit of the state.

26 74-604. PUBLIC FUNDS PROHIBITED. (1) Unless specifically required by
 27 law, and except as provided in this chapter, neither a public entity nor its
 28 employees shall make, nor shall a public official make or authorize, an ex-
 29 penditure from public funds to advocate for or against a candidate or a bal-
 30 lot measure.

31 (2) Neither a public entity nor any of its employees shall use, nor
 32 shall a public official authorize or use, public property or resources to
 33 advocate for or against a candidate or a ballot measure.

34 74-605. EXCLUSIONS. Nothing in this chapter shall prohibit:

35 (1) A public official or employee from speaking, campaigning, con-
 36 tributing personal money or otherwise exercising the public official's
 37 or employee's individual first amendment rights for political purposes,
 38 provided no public funds are used for expenditures supporting the public
 39 official or employee in such activity;

40 (2) A public entity, public official or employee from the neutral en-
 41 couragement of voters to vote;

42 (3) An elected official or employee from personally campaigning or ad-
 43 vocating for or against a ballot measure, provided no public funds, property
 44 or resources are used for supporting the elected official or employee in such
 45 activity;

46 (4) A public entity from preparing and distributing to electors an ob-
 47 jective statement explaining the purpose and effect of the ballot measure,
 48 including in the case of bond or levy elections the cost per taxpayer or tax-

1 able value, or similar information based on reasonable estimates prepared in
2 good faith;

3 (5) The formulation and publication of statements regarding proposed
4 amendments to the state constitution, as authorized by section 67-453, Idaho
5 Code;

6 (6) The publication of information described in sections 34-439,
7 34-439A and 34-1406, Idaho Code, as applicable, or other provisions of law
8 requiring notices and disclosures in connection with elections and ballot
9 measures; or

10 (7) A balanced student classroom discussion or debate of current or
11 pending election issues.

12 74-606. VIOLATIONS -- REMEDIES. (1) Any public official or employee
13 who conducts or participates in an activity that violates the provisions of
14 this chapter shall be subject to a civil penalty not to exceed two hundred
15 fifty dollars (\$250).

16 (2) Any public official or employee who knowingly violates the provi-
17 sions of this chapter shall be subject to a civil penalty not to exceed one
18 thousand five hundred dollars (\$1,500).

19 (3) Any public official or employee who knowingly violates any provi-
20 sion of this chapter and who has previously admitted to committing or has
21 been previously determined to have committed a violation pursuant to subsec-
22 tion (2) of this section within the twelve (12) months preceding this subse-
23 quent violation shall be subject to a civil penalty not to exceed two thou-
24 sand five hundred dollars (\$2,500).

25 (4) The attorney general shall have the duty to enforce this chapter
26 in relation to public agencies of state government, and the prosecuting at-
27 torneys of the various counties shall have the duty to enforce this chapter
28 in relation to local public agencies within their respective jurisdictions.
29 In the event that there is reason to believe that a violation of the provi-
30 sions of this act has been committed by members of a board of county commis-
31 sioners or, for any other reason a county prosecuting attorney is deemed dis-
32 qualified from proceeding to enforce this chapter, the prosecuting attorney
33 or board of county commissioners shall seek to have a special prosecutor ap-
34 pointed for that purpose, as provided in section 31-2603, Idaho Code.