LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature First Regular Session - 2021

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 66, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; REPEALING SECTION 34-439, IDAHO CODE, RELATING TO DISCLOSURES IN BOND ELECTIONS; REPEALING SECTION 34-439A, IDAHO CODE, RELATING TO DISCLOSURES IN LEVY ELECTIONS; AMENDING CHAPTER 9, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-913, IDAHO CODE, TO PROVIDE FOR DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS; AMENDING CHAPTER 9, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-914, IDAHO CODE, TO PROVIDE FOR DISCLOSURES IN ELECTIONS TO AUTHORIZE A LEVY; AMENDING SECTION 34-2001A, IDAHO CODE, TO REVISE PROVISIONS REGARDING BOND AND LEVY ELECTION CONTESTS; AND AMENDING SECTION 74-605, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.

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

SECTION 1. That Section 34-439, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Section 34-439A, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 9, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-913, Idaho Code, and to read as follows:

34-913. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTEDNESS. (1) Notwithstanding any other provision of law, on and after July 1, 2021, any taxing district that proposes to submit any question to the electors of the district that would authorize any bonded indebtedness must provide a brief official statement setting forth in simple, understandable language information on the proposal substantially as follows:

(a) The purpose for which the bonds are to be used, including but not necessarily limited to a description of the facility or project that will be financed, in whole or in part, by the sale of the bonds; the date of the election; and the principal amount of the bonds to be issued;

(b) The anticipated interest rate on the proposed bonds based on current market rates and a maximum interest rate if a maximum is specified in the question to be submitted to electors;

(c) The total amount to be repaid over the life of the bonds based on the anticipated interest. Such total shall reflect three (3) components: a total of the principal to be repaid; a total of the interest to be paid; and the sum of both;

(d) The estimated average annual cost to the taxpayer of the proposed bond, in the format of "A tax of $ per $100,000 of taxable assessed value, per year, based on current conditions";

(e) The length of time, reflected in months or years, in which the proposed bonds will be paid off or retired; and
(f) The total existing indebtedness, including interest accrued, of
the taxing district.

(2) (a) The formula for calculating the estimated average annual cost to
the taxpayer shall be as follows:

\[(\text{Bond Total}/\text{Taxable Value}) \times 100,000)/\text{Duration} = \text{estimated average annual cost to taxpayer}\; \text{and}

(b) The elements of which are defined as:

(i) "Bond total" means the total amount to be bonded, from subsec-
tion (1)(c) of this section as based on the anticipated interest
rate in subsection (1)(b) of this section;

(ii) "Duration" means the time, in years, from subsection (1)(e)
of this section; and

(iii) "Taxable value" means the most recent total taxable value
for property for the applicable taxing district, which shall be
obtained from the applicable county treasurer or assessor's of-

(3) The official statement must be made a part of the ballot prior to the
location on the ballot where a person casts a vote and must be included in the
official notice of the election.

(4) In order to be binding, a ballot question to authorize a bond must
include the information and language required by this section in its offi-
cial statement.

(5) Upon a determination by a court, pursuant to section 34-2001A,
Idaho Code, that the taxing district failed to comply with the provisions
of this section, the court must declare the outcome of the ballot question
invalid and award court costs and fees to the prevailing party.

SECTION 4. That Chapter 9, Title 34, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 34-914, Idaho Code, and to read as follows:

34-914. DISCLOSURES IN ELECTIONS TO AUTHORIZE A LEVY. (1) Notwith-
standing any other provision of law, on and after July 1, 2021, any taxing
district that proposes to submit any question to the electors of the dis-

(2) The estimated average annual cost to the taxpayer of the proposed
levy, in the form of "A tax of $____ per $100,000 of taxable assessed
value, per year, based on current conditions." If the taxing district
proposing the levy has an existing levy of the same type that is set
to expire at the time that the proposed levy will begin, an additional
statement may be provided along the following lines: "The proposed levy
replaces an existing levy that will expire on ____ and that currently
costs $____ per $100,000 of taxable assessed value." The statement shall also disclose that, if the proposed levy is approved, the tax per $100,000 of taxable assessed value is either: (i) not expected to change or (ii) is expected to increase or decrease the tax by $____ per $100,000 of taxable assessed value. The dollar amounts referenced in this paragraph shall be calculated by multiplying the expected levy rate by one hundred thousand dollars ($100,000);
(c) The length of time, reflected in months or years, in which the proposed levy will be assessed; and
(d) If an existing levy is referenced, the expiration date of the levy must also be provided.
(2) The information called for in subsection (1) of this section must be placed immediately above the location on the ballot where a person casts a vote and must also be included in like manner in the official notice of the election.
(3) In order to be binding, a ballot question to authorize a levy must include the information and language required by this section in its official statement. The ballot question may not include other information or language regarding any other bond, levy, or matter, whether previous, current, or proposed, except as authorized under this section.
(4) Upon a determination by a court, pursuant to section 34-2001A, Idaho Code, that the taxing district failed to comply with the provisions of this section, the court must declare the outcome of the ballot question invalid and award court costs and fees to the prevailing party.

SECTION 5. That Section 34-2001A, Idaho Code, be, and the same is hereby amended to read as follows:

34-2001A. BOND ELECTION AND MILL LEVY CONTESTS -- TIME FOR FILING -- VALIDATION OF ELECTIONS AND BONDS. (1) The provisions of this chapter with respect to the contest of elections shall be applicable to bond elections conducted by cities, counties, school districts, and water and sewer districts and to elections conducted by school districts for mill levy increases as authorized by sections 33-802, 33-803, and 33-804, Idaho Code. Any such contest shall be regarded as one contesting the outcome of the vote on the bond or mill levy proposition, rather than election to office, and the public entity calling the election, rather than a person declared to have been elected to office, shall be regarded as the defendant.
(2) When the validity of any bond or mill levy election is contested upon any of the grounds enumerated in section 34-2001, Idaho Code, on the grounds of a failure to comply with the requirements of section 34-913 or 34-914, Idaho Code, or upon any other grounds whatsoever the plaintiff or plaintiffs must, within forty (40) days after the votes are canvassed and the results thereof declared, file in the proper court a verified written complaint setting forth, in addition to the other requirements of this chapter, the following:
(a) The name of the party contesting the bond or mill levy election, and that he is an elector of the public entity conducting the bond or mill levy election;
(b) The proposition or propositions voted on at the election which that are contested; and
(3c) The particular grounds of such contest.

(3) No such election contest shall be maintained and no bond or mill levy election shall be set aside or held invalid unless a complaint is filed as permitted hereunder under this section within the period prescribed in this section. As to bond or mill levy elections which have been held prior to the effective date of this act, no such contest shall be maintained wherein it is alleged that the election should be set aside or held on any ground enumerated in section 34-2001, Idaho Code, or on any other ground, unless such election contest be filed as herein provided within forty (40) days from and after the effective date of this act.

(4) All bond elections conducted by cities, counties, school districts, and water and sewer districts prior to the effective date of this act, and all proceedings had in the authorization and issuance of the bonds authorized thereat, are hereby validated, ratified, and confirmed and all such bonds are declared to constitute legally binding obligations in accordance with their terms. Nothing in this section shall be construed to affect or validate any bond election, or bonds issued pursuant thereto, the legality of which is being contested at the time this act takes effect, or any election, the legality of which is contested within the forty (40) day period from and after the effective date of this act.

SECTION 6. That Section 74-605, Idaho Code, be, and the same is hereby amended to read as follows:

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

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

(2) A public entity, public official or employee from the neutral encouragement of voters to vote;

(3) An elected official or employee from personally campaigning or advocating for or against a ballot measure, provided no public funds, property or resources are used for supporting the elected official or employee in such activity;

(4) A public entity from preparing and distributing to electors an objective statement explaining the purpose and effect of the ballot measure, including in the case of bond or levy elections the cost per taxpayer or tax-able value, or similar information based on reasonable estimates prepared in good faith;

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

(6) The publication of information described in sections 34-439, 34-440, 34-459, 34-913, 34-914, and 34-1406, Idaho Code, as applicable, or other provisions of law requiring notices and disclosures in connection with elections and ballot measures; or

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