

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 613

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO POLLING PLACES; AMENDING SECTION 6-1605, IDAHO CODE, TO PROVIDE
2 A LIMITATION ON LIABILITY FOR WORKERS OR VOLUNTEERS AT CERTAIN POLLING
3 PLACES; AMENDING SECTION 34-302, IDAHO CODE, TO PROVIDE FOR STATE FUND-
4 ING OF COMMERCIAL LIABILITY INSURANCE FOR CERTAIN PRIVATE FACILITIES
5 USED AS POLLING PLACES; AMENDING SECTION 63-602, IDAHO CODE, TO ESTAB-
6 LISH A PROVISION REGARDING PROPERTY EXEMPT FROM TAXATION; AMENDING SEC-
7 TION 67-5773, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT
8 OF ADMINISTRATION SHALL PURCHASE CERTAIN COMMERCIAL LIABILITY INSUR-
9 ANCE FOR CERTAIN PRIVATE FACILITIES DESIGNATED AS POLLING PLACES; AND
10 DECLARING AN EMERGENCY.
11

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

13 SECTION 1. That Section 6-1605, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 6-1605. LIMITATION ON LIABILITY OF VOLUNTEERS, OFFICERS AND DIREC-
16 TORS OF NONPROFIT CORPORATIONS AND ORGANIZATIONS AND TRUSTEES OF CHARITABLE
17 TRUSTS. (1) In any nonprofit corporation or organization or charitable
18 trust as defined in section 6-1601(6), Idaho Code, officers, directors,
19 and volunteers who serve the nonprofit corporation or organization without
20 compensation and trustees of the charitable trust who serve without compen-
21 sation shall be personally immune from civil liability arising out of their
22 conduct as an officer, director, trustee or volunteer, if such conduct is
23 within the course and scope of the duties and functions of the individual
24 officer, director, trustee or volunteer and at the direction of the corpo-
25 ration or organization or charitable trust. The provisions of this section
26 shall not eliminate or limit, and no immunity is hereby granted for the lia-
27 bility of an officer, director, trustee or volunteer:

28 (a) For conduct which is willful, wanton, or which involves fraud or
29 knowing violation of the law;

30 (b) To the extent of coverage for such conduct under a policy of li-
31 ability insurance, whether the policy is purchased by the corporation
32 or organization or charitable trust, the individual officer, director,
33 trustee, volunteer or some third party;

34 (c) For any intentional breach of a fiduciary duty or duty of loyalty
35 owed by the officer, director or volunteer to the corporation, organi-
36 zation or the members thereof, or owed by the trustee to the charitable
37 trust or the members thereof;

38 (d) For acts or omissions not in good faith or which involve intentional
39 misconduct, fraud or a knowing violation of law;

40 (e) For any transaction from which the officer, director, trustee or
41 volunteer derived an improper personal benefit;

1 (f) For any violation of the provisions of section 30-3-82, Idaho Code;
2 or

3 (g) For damages which result from the operation of a motor vehicle.

4 (2) Reimbursement of an officer, director or volunteer of a nonprofit
5 corporation or organization or of a trustee of a charitable trust for costs
6 and expenses actually incurred shall not be considered compensation.

7 (3) Nothing in this section shall be construed to supersede, abrogate,
8 or limit any immunities or limitation of liability otherwise provided by
9 law.

10 (4) The provisions of this section shall apply to any election worker or
11 volunteer conducting an election pursuant to the provisions of chapter 11,
12 title 34, Idaho Code, at a private, nonprofit polling place, to any entity
13 providing such location as a polling place, and to any election-related ac-
14 tivity during the duration of the workers or volunteers on the premises.

15 SECTION 2. That Section 34-302, Idaho Code, be, and the same is hereby
16 amended to read as follows:

17 34-302. DESIGNATION OF PRECINCT POLLING PLACES -- POLLING PLACE EX-
18 PENSES. (1) The board shall, by the fifth Friday before any election, des-
19 ignate a suitable polling place for each election precinct. Insofar as pos-
20 sible, the board shall designate the same polling place for the general elec-
21 tion that it designated for the primary election. The physical arrangements
22 of the polling place shall be sufficient to guarantee all voters the right
23 to cast a secret ballot. Public school facilities shall be made available
24 to the board as precinct polling places. All polling places designated as
25 provided herein shall conform to the accessibility standards adopted by the
26 secretary of state pursuant to the voting accessibility for the elderly and
27 handicapped act, 52 U.S.C. 20101 et seq.

28 (2) (a) The expense of providing such polling places shall be a public
29 charge and paid out of the county treasury, except as provided in para-
30 graph (b) of this subsection.

31 (b) For private facilities designated as polling places under this sec-
32 tion, the secretary of state shall establish in coordination with the
33 department of administration a program to provide proof of self-funded
34 liability coverage for such private facilities used as polling places
35 on election day. Each county shall submit a list of private facilities
36 designated as polling places that require proof of liability insurance
37 at least sixty (60) days prior to the election. The secretary of state
38 shall verify the eligibility of the private facilities as a qualified
39 polling place under this section and forward the verified list of pri-
40 private facilities to the director of the department of administration,
41 requesting proof of self-funded liability coverage for those locations
42 at least forty-five (45) days prior to the election.

43 SECTION 3. That Section 63-602, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 63-602. PROPERTY EXEMPT FROM TAXATION. (1) Property shall be exempt
46 from taxation as provided in titles 21, 22, 25, 26, 31, 33, 39, 41, 42, 49, 50,
47 67 and 70, Idaho Code, and in chapters 6, 24, 30, 35 and 45, title 63, Idaho

1 Code; provided, that no deduction shall be made in assessment of shares of
2 capital stock of any corporation or association for exemptions claimed under
3 this section, and provided further, that the term "full cash value" wherever
4 used in this act shall mean the actual assessed value of the property as to
5 which an exemption is claimed.

6 (2) The use of the word "exclusive" or "exclusively" in this chapter
7 shall mean used exclusively for any one (1) or more, or any combination, of
8 the exempt purposes provided hereunder and property used for more than one
9 (1) exempt purpose, pursuant to the provisions of sections 63-602A through
10 63-60200, Idaho Code, shall be exempt from taxation hereunder as long as the
11 property is used exclusively for one (1) or more or any combination of the ex-
12 empt purposes provided hereunder.

13 (3) All exemptions from property taxation claimed shall be approved an-
14 nually by the board of county commissioners or unless otherwise provided:

15 (a) Exemptions pursuant to sections 63-602A, 63-602F, 63-602I,
16 63-602J, 63-602L(1), 63-602M, 63-602N, 63-602R, 63-602S, 63-602U,
17 63-602V, 63-602W, 63-602Z, 63-602DD(1), 63-602EE, 63-60200, 63-2431,
18 63-3502, 63-3502A and 63-3502B, Idaho Code, do not require application
19 or approval by the board of county commissioners. For all other exemp-
20 tions in title 63, Idaho Code, the process of applying is as specified in
21 the exemption statutes or, if no process is specified and application is
22 necessary to identify the property eligible for the exemption, annual
23 application is required. Exemptions in other titles require no appli-
24 cation.

25 (b) For exemptions that require an application, provided such exemp-
26 tions are for property otherwise subject to assessment by the county
27 assessor, the application must be made to the county commissioners by
28 April 15 and the taxpayer and county assessor must be notified of any de-
29 cision by May 15, unless otherwise provided by law. The decision of the
30 county commissioners and any subsequent assessment notices sent to the
31 taxpayer may be appealed to the county board of equalization pursuant to
32 sections 63-501 and 63-501A, Idaho Code.

33 (c) For exemptions that require an application, provided such exemp-
34 tions are for property otherwise subject to assessment by the state tax
35 commission, application for exemption shall be included with the an-
36 nual operator's statement as required pursuant to section 63-404, Idaho
37 Code. Notice of the decision and its effect on the assessment will be
38 provided in accordance with procedures specified in chapter 4, title
39 63, Idaho Code. Appeals shall be made to the state tax commission in ac-
40 cordance with section 63-407, Idaho Code.

41 (4) An owner of property that is intended for a tax-exempt purpose may
42 apply to the board of county commissioners for a provisional property tax ex-
43 emption, pursuant to section 63-1305C, Idaho Code.

44 (5) The use of any property receiving an exemption provided in section
45 63-602B, 63-602C, or 63-602E, Idaho Code, as a polling place pursuant to sec-
46 tion 34-302, Idaho Code, or for other election-related purposes authorized
47 by law, shall not be deemed inconsistent with the property's tax-exempt sta-
48 tus and shall not affect, impair, or disqualify the property from receiving
49 or maintaining such exemption.

1 SECTION 4. That Section 67-5773, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 67-5773. POWERS AND DUTIES -- RISK MANAGEMENT. (1) The director of the
4 department of administration shall:

5 (a) Determine the nature and extent of needs for surety bonds and
6 insurance coverages of all kinds, other than life and disability insur-
7 ances, as to risks and property of all offices, departments, divisions,
8 boards, commissions, institutions, agencies, officers, agents, em-
9 ployees, and operations of the government of the state of Idaho, the
10 premiums on which are payable in whole or in part from funds of the
11 state.

12 (b) Determine the character, terms, and amounts of coverage required by
13 such needs.

14 (c) Within funds available therefor from each respective office, de-
15 partment, division, board, commission, institution, agency or opera-
16 tion with respect to coverage to be provided to it, negotiate for, pro-
17 cure, purchase, and have placed or continued in effect all such cover-
18 ages and services as may reasonably be obtainable, whether from insur-
19 ers or brokers duly authorized to transact business in this state.

20 (d) Administer all such coverages on behalf of the insured, including
21 making and settlement of loss claims arising thereunder. The director,
22 with the advice of the attorney general, may cause suit to be brought
23 with respect to any such coverage or loss.

24 (e) Within available funds and personnel, make periodic inspection or
25 appraisal of premises, property and risks as to conditions affecting
26 insurability, risk, and premium rate and submit a written report of each
27 such inspection or appraisal together with recommendations, if any, to
28 the officer, department, or agency in direct charge of such premises,
29 property or risks.

30 (f) Perform such other duties and exercise such other powers as are pro-
31 vided by law.

32 (g) Establish a risk management advisory committee. The director shall
33 consult with the advisory committee in the performance of those duties
34 enumerated in this subsection.

35 (h) Upon notification from the secretary of state of any private facil-
36 ities that have been designated as polling places and that require proof
37 of self-funded liability coverage for their use as polling places on
38 election day pursuant to section 34-302, Idaho Code, add these polling
39 places to the secretary of state's self-funded liability coverage.
40 Such coverage shall extend only to general liability for risks aris-
41 ing from election-related activities from a private facility's use on
42 election day during elections held pursuant to title 34, Idaho Code, and
43 shall cover activities only from the time election workers are granted
44 access to the private facility until the time they exit the private fa-
45 cility.

46 (2) As to all such needs and coverages, the director shall give due con-
47 sideration to information furnished by and recommendations of any office,
48 department, division, board, commission, institution or agency, including

1 the secretary of state for polling place coverage additions under subsection
2 (1) (h) of this section.

3 SECTION 5. An emergency existing therefor, which emergency is hereby
4 declared to exist, this act shall be in full force and effect on and after its
5 passage and approval.