

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 66, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; REPEALING SECTION 34-439, IDAHO CODE, RELATING TO
2 DISCLOSURES IN BOND ELECTIONS; REPEALING SECTION 34-439A, IDAHO CODE,
3 RELATING TO DISCLOSURES IN LEVY ELECTIONS; AMENDING CHAPTER 9, TITLE
4 34, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 34-913, IDAHO CODE,
5 TO PROVIDE FOR DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTED-
6 NESS; AMENDING CHAPTER 9, TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW
7 SECTION 34-914, IDAHO CODE, TO PROVIDE FOR DISCLOSURES IN ELECTIONS TO
8 AUTHORIZE A LEVY; AMENDING SECTION 34-2001A, IDAHO CODE, TO REVISE PRO-
9 VISIONS REGARDING BOND AND LEVY ELECTION CONTESTS; AND AMENDING SECTION
10 74-605, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES.
11

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

13 SECTION 1. That Section [34-439](#), Idaho Code, be, and the same is hereby
14 repealed.

15 SECTION 2. That Section [34-439A](#), Idaho Code, be, and the same is hereby
16 repealed.

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

20 34-913. DISCLOSURES IN ELECTIONS TO AUTHORIZE BONDED INDEBTED-
21 NESS. (1) Notwithstanding any other provision of law, on and after July
22 1, 2021, any taxing district that proposes to submit any question to the
23 electors of the district that would authorize any bonded indebtedness must
24 provide a brief official statement setting forth in simple, understandable
25 language information on the proposal substantially as follows:

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

30 (b) The anticipated interest rate on the proposed bonds based on cur-
31 rent market rates and a maximum interest rate if a maximum is specified
32 in the question to be submitted to electors;

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

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

40 (e) The length of time, reflected in months or years, in which the pro-
41 posed bonds will be paid off or retired; and

1 (f) The total existing indebtedness, including interest accrued, of
2 the taxing district.

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

5 $((\text{Bond Total}/\text{Taxable Value}) \times 100,000)/\text{Duration} = \text{estimated average}$
6 $\text{annual cost to taxpayer; and}$

7 (b) The elements of which are defined as:

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

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

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

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

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

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

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

30 34-914. DISCLOSURES IN ELECTIONS TO AUTHORIZE A LEVY. (1) Notwith-
31 standing any other provision of law, on and after July 1, 2021, any taxing
32 district that proposes to submit any question to the electors of the dis-
33 trict that would authorize any levy, except for the levies authorized for
34 the purposes provided in sections 63-802(1) (h) and 33-802(4), Idaho Code,
35 and except for levies relating to bonded indebtedness where section 34-913,
36 Idaho Code, applies, must include in the ballot question, or in a brief of-
37 ficial statement on the ballot but separate from the ballot question, a dis-
38 closure setting forth in simple, understandable language information on the
39 proposal substantially as follows:

40 (a) The purpose for which the levy shall be used; the date of the elec-
41 tion; and the dollar amount estimated to be collected each year from the
42 levy;

43 (b) The estimated average annual cost to the taxpayer of the proposed
44 levy, in the form of "A tax of \$_____ per \$100,000 of taxable assessed
45 value, per year, based on current conditions." If the taxing district
46 proposing the levy has an existing levy of the same type that is set
47 to expire at the time that the proposed levy will begin, an additional
48 statement may be provided along the following lines: "The proposed levy
49 replaces an existing levy that will expire on _____ and that currently

1 costs \$_____ per \$100,000 of taxable assessed value." The statement
 2 shall also disclose that, if the proposed levy is approved, the tax
 3 per \$100,000 of taxable assessed value is either: (i) not expected to
 4 change or (ii) is expected to increase or decrease the tax by \$_____ per
 5 \$100,000 of taxable assessed value. The dollar amounts referenced in
 6 this paragraph shall be calculated by multiplying the expected levy
 7 rate by one hundred thousand dollars (\$100,000);

8 (c) The length of time, reflected in months or years, in which the pro-
 9 posed levy will be assessed; and

10 (d) If an existing levy is referenced, the expiration date of the levy
 11 must also be provided.

12 (2) The information called for in subsection (1) of this section must
 13 be placed immediately above the location on the ballot where a person casts
 14 a vote and must also be included in like manner in the official notice of the
 15 election.

16 (3) In order to be binding, a ballot question to authorize a levy must
 17 include the information and language required by this section in its offi-
 18 cial statement. The ballot question may not include other information or
 19 language regarding any other bond, levy, or matter, whether previous, cur-
 20 rent, or proposed, except as authorized under this section.

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

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

27 34-2001A. BOND ELECTION AND ~~MILL~~ LEVY CONTESTS -- TIME FOR FILING --
 28 VALIDATION OF ELECTIONS AND BONDS. ~~A.~~ (1) The provisions of this chapter
 29 with respect to the contest of elections shall be applicable to bond elec-
 30 tions conducted by cities, counties, school districts, and water and sewer
 31 districts, and to elections conducted by school districts for ~~mill~~ levy in-
 32 creases as authorized by sections 33-802, 33-803, and 33-804, Idaho Code.
 33 Any such contest shall be regarded as one contesting the outcome of the vote
 34 on the bond or ~~mill~~ levy proposition, rather than election to office, and the
 35 public entity calling the election, rather than a person declared to have
 36 been elected to office, shall be regarded as the defendant.

37 ~~B.~~ (2) When the validity of any bond or ~~mill~~ levy election is contested
 38 ~~upon~~ on any of the grounds enumerated in section 34-2001, Idaho Code, on the
 39 grounds of a failure to comply with the requirements of section 34-913 or
 40 34-914, Idaho Code, or upon on any other grounds whatsoever the plaintiff or
 41 plaintiffs must, within forty (40) days after the votes are canvassed and the
 42 results thereof declared, file in the proper court a verified written com-
 43 plaint setting forth, in addition to the other requirements of this chapter,
 44 the following:

45 (1a) The name of the party contesting the bond or ~~mill~~ levy election,
 46 and that he is an elector of the public entity conducting the bond or
 47 ~~mill~~ levy election;

48 (2b) The proposition or propositions voted on at the election ~~which~~
 49 that are contested; and

1 (3c) The particular grounds of such contest.

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

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

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

23 74-605. EXCLUSIONS. Nothing in this chapter shall prohibit:

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

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

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

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

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

43 (6) The publication of information described in sections ~~34-439,~~
44 ~~34-439A~~ 34-913, 34-914, and 34-1406, Idaho Code, as applicable, or other
45 provisions of law requiring notices and disclosures in connection with elec-
46 tions and ballot measures; or

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