

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 105

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE IDAHO BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE
2 BLIND; AMENDING SECTION 33-3407, IDAHO CODE, TO CORRECT A CODE REFER-
3 ENCE; AMENDING SECTION 59-1374, IDAHO CODE, TO PROVIDE THAT THE IDAHO
4 BUREAU OF EDUCATIONAL SERVICES FOR THE DEAF AND THE BLIND IS AN EMPLOYER
5 FOR PUBLIC EMPLOYEE RETIREMENT SYSTEM PURPOSES; DECLARING AN EMERGENCY
6 AND PROVIDING RETROACTIVE APPLICATION.
7

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

9 SECTION 1. That Section 33-3407, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 33-3407. GOVERNMENTAL ENTITY -- LIABILITY -- INSURANCE. (1) The Idaho
12 bureau of educational services for the deaf and the blind, as provided for in
13 this chapter, is not a single department of state government unto itself, nor
14 is it a part of any of the twenty (20) departments of state government autho-
15 rized by section 20, article IV, of the constitution of the state of Idaho,
16 or of the departments provided for in section 67-2402, Idaho Code. It is leg-
17 islative intent that the Idaho bureau of educational services for the deaf
18 and the blind operate and be recognized not as a state agency or department,
19 but as a governmental entity whose creation has been authorized by the state,
20 much in the manner as other single purpose districts. For the purposes of
21 section 59-1302(15), Idaho Code, the Idaho bureau of educational services
22 for the deaf and the blind created pursuant to this chapter shall be deemed a
23 governmental entity. Pursuant to the provisions of section 63-36220, Idaho
24 Code, sales to or purchases by the Idaho bureau of educational services for
25 the deaf and the blind are exempt from payment of the sales and use tax. The
26 Idaho bureau of educational services for the deaf and the blind, its employ-
27 ees and its board of directors are subject to the following provisions in
28 the same manner as a traditional public school and the board of trustees of
29 a school district:

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

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

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

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

36 (e) Chapter 3, title 9, Idaho Code, on disclosure of public records.

37 (2) The Idaho bureau of educational services for the deaf and the blind,
38 its employees and its board of directors are subject to the following provi-
39 sions:

40 (a) Section 33-1216, Idaho Code, on sick and other leave, or the laws,
41 rules and policies of the state of Idaho for sick and other leave as

1 provided for in chapter 53, title 67, Idaho Code, as determined by the
2 board;

3 (b) Section 33-1217, Idaho Code, on accumulation of unused sick leave,
4 or the laws, rules and policies of the state of Idaho for accumulation
5 of unused sick leave as provided for in section 67-5333, Idaho Code, as
6 determined by the board;

7 (c) Section 33-1218, Idaho Code, on sick leave in excess of statutory
8 minimum amounts, or the laws, rules and policies of the state of Idaho
9 for sick leave in excess of statutory minimum amounts as provided for in
10 section 67-5333, Idaho Code, as determined by the board; and

11 (d) Section 33-1228, Idaho Code, on severance allowance at retirement,
12 or the laws, rules and policies of the state of Idaho for severance al-
13 lowance at retirement as provided for in section 67-534233, Idaho Code,
14 as determined by the board.

15 (3) The Idaho bureau of educational services for the deaf and the blind
16 may sue or be sued, purchase, receive, hold and convey real and personal
17 property for school purposes, 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.

21 (4) The Idaho bureau of educational services for the deaf and the blind
22 shall be considered a state department for purposes of risk management and
23 group insurance pursuant to chapter 57, title 67, Idaho Code, and the depart-
24 ment of administration shall treat the bureau as such.

25 (5) It shall be unlawful for:

26 (a) Any director to have pecuniary interest directly or indirectly
27 in any contract or other transaction pertaining to the maintenance or
28 conduct of the Idaho bureau of educational services for the deaf and the
29 blind, or to accept any reward or compensation for services rendered as
30 a director except as may be otherwise provided in this subsection. The
31 board of directors of the Idaho bureau of educational services for the
32 deaf and the blind may accept and award contracts involving the Idaho
33 bureau of educational services for the deaf and the blind to businesses
34 in which the director or a person related to him by blood or marriage
35 within the second degree of consanguinity has a direct or indirect
36 interest, provided that the procedures set forth in section 18-1361
37 or 18-1361A, Idaho Code, are followed. The receiving, soliciting or
38 acceptance of moneys of the Idaho bureau of educational services for
39 the deaf and the blind for deposit in any bank or trust company, or the
40 lending of moneys by any bank or trust company to the Idaho bureau of ed-
41 ucational services for the deaf and the blind, shall not be deemed to be
42 a contract pertaining to the maintenance or conduct of the Idaho bureau
43 of educational services for the deaf and the blind within the meaning of
44 this section; nor shall the payment of compensation by the Idaho bureau
45 of educational services for the deaf and the blind board of directors
46 to any bank or trust company for services rendered in the transaction
47 of any banking business with the Idaho bureau of educational services
48 for the deaf and the blind board of directors be deemed the payment of
49 any reward or compensation to any officer or director of any such bank or
50 trust company within the meaning of this section.

1 (b) The board of directors of the Idaho bureau of educational services
2 for the deaf and the blind to enter into or execute any contract with the
3 spouse of any member of such board, the terms of which said contract re-
4 quire, or shall require, the payment or delivery of any Idaho bureau of
5 educational services for the deaf and the blind funds, moneys or prop-
6 erty to such spouse, except as provided in section 18-1361 or 18-1361A,
7 Idaho Code.

8 (6) When any relative of any director, or relative of the spouse of a
9 director related by affinity or consanguinity within the second degree, is
10 to be considered for employment in the Idaho bureau of educational services
11 for the deaf and the blind, such director shall abstain from voting in the
12 election of such relative, and shall be absent from the meeting while such
13 employment is being considered and determined.

14 SECTION 2. That Section 59-1374, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 59-1374. EMPLOYERS -- MEMBERS -- EXCEPTIONS. All school districts,
17 public community college districts and Boise State University shall become
18 employers pursuant to the provisions of chapter 13, title 59, Idaho Code, on
19 July 1, 1967, except as herein otherwise provided. School employees shall
20 become members pursuant to the provisions of chapter 13, title 59, Idaho
21 Code, on July 1, 1967, except as herein otherwise provided. Provided, how-
22 ever, that teacher members employed by the agricultural extension service
23 of the college of agriculture of the University of Idaho shall be deemed to
24 be employees of the state of Idaho notwithstanding the provisions of section
25 59-1302(14)(B)(e), Idaho Code, and may elect to participate or be excluded
26 as members of the system in accordance with rules of the board. All public
27 charter schools created pursuant to chapter 52, title 33, Idaho Code, shall
28 be employers pursuant to the provisions of chapter 13, title 59, Idaho Code.
29 The Idaho digital learning academy created pursuant to chapter 55, title 33,
30 Idaho Code, shall be an employer pursuant to the provisions of this chapter
31 13, title 59, Idaho Code. The Idaho bureau of educational services for the
32 deaf and the blind created pursuant to chapter 34, title 33, Idaho Code,
33 shall be an employer pursuant to the provisions of this chapter 13, title 59,
34 Idaho Code.

35 SECTION 3. An emergency existing therefor, which emergency is hereby
36 declared to exist, Section 1 of this act shall be in full force and effect on
37 and after passage and approval, and retroactively to July 1, 2010. Section
38 2 of this act shall be in full force and effect on and after passage and ap-
39 proval, and retroactively to July 1, 2009.