

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 134

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO USE OF PUBLIC FUNDS IN ELECTIONS; AMENDING TITLE 74, IDAHO CODE,  
2 BY THE ADDITION OF A NEW CHAPTER 6, TITLE 74, IDAHO CODE, TO PROVIDE A  
3 SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO PROHIBIT THE USE OF PUB-  
4 LIC FUNDS IN ELECTIONS, TO LIMIT MASS COMMUNICATIONS, TO PROVIDE FOR VI-  
5 OLATIONS, TO PROVIDE FOR A CHALLENGE ON THE VALIDITY OF AN ELECTION AND  
6 TO PROVIDE FOR AN APPEAL ON JUDGMENT.  
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8 Be It Enacted by the Legislature of the State of Idaho:

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

12 CHAPTER 6

13 GOVERNMENT NONINTERFERENCE IN ELECTIONS ACT

14 74-601. SHORT TITLE. This act shall be known and may be cited as the  
15 "Government Noninterference in Elections Act."

16 74-602. LEGISLATIVE INTENT. The legislature finds that it is against  
17 public policy for public funds, resources or property to be used to influence  
18 the outcome at the ballot box. The legislature also finds that using public  
19 funds or resources to advocate particular outcomes is contrary to the prin-  
20 ciples of our republican form of government in protecting individual thought  
21 rather than perpetuating government as its own special interest.

22 74-603. PUBLIC FUNDS IN ELECTIONS PROHIBITED. (1) No public funds,  
23 resources or property may be used in supporting, opposing, promoting, adver-  
24 tising or in any other way intervening or interfering in the election of any  
25 candidate, measure, bond, levy or question appearing on a ballot, except as  
26 provided in subsection (2) of this section.

27 (2) Use of public funds, resources or property used to promote or adver-  
28 tise an election shall be limited to:

29 (a) Advertising the fact that an election is to be held, as required by  
30 law;

31 (b) Placing notices about the election on an official government web-  
32 site and social media platform, or in a newspaper, with such notices be-  
33 ing limited to:

34 (i) When and where the election is to be held;

35 (ii) Names of the candidates on the ballot;

36 (iii) For bond, levy or any other tax election, the amount of taxes  
37 to be collected, interest rate, duration, a neutral and concise  
38 explanation of the purpose of the tax, and the estimated monetary  
39 impact of the tax on the taxpayer. For property tax proposals,

1           this shall include the expected cost per one hundred thousand dol-  
2           lars (\$100,000) of taxable value and the current tax per one hun-  
3           dred thousand dollars (\$100,000) of taxable value; and

4           (iv) The formulation and publication of statements regarding pro-  
5           posed amendments to the state constitution, as authorized by sec-  
6           tions 67-453 and 34-1812C, Idaho Code;

7           (c) Activities described in section 34-1406, Idaho Code.

8           74-604. LIMITATION ON MASS COMMUNICATIONS. No elected official ap-  
9           pearing on a ballot and no local government agency or taxing district with  
10          a measure, bond, levy or question appearing on the ballot shall use public  
11          funds, resources or property to produce or to send unsolicited mass mailings  
12          or mass communications, even if otherwise permitted under section 74-603,  
13          Idaho Code, including radio, television or social media, within thirty (30)  
14          days preceding the primary election or within sixty (60) days of the general  
15          election.

16          74-605. VIOLATIONS. (1) The attorney general shall have the duty to  
17          enforce this chapter in relation to public agencies of state government and  
18          county elected officials, and the prosecuting attorneys of the various coun-  
19          ties shall have the duty to enforce this act in relation to local public agen-  
20          cies within their respective jurisdictions. In the event that there is rea-  
21          son to believe that a violation of the provisions of this act has been com-  
22          mitted by members of a board of county commissioners or, for any other rea-  
23          son a county prosecuting attorney is deemed disqualified from proceeding to  
24          enforce this act, the prosecuting attorney or board of county commissioners  
25          shall seek to have a special prosecutor appointed for that purpose as pro-  
26          vided in section 31-2603, Idaho Code.

27          (2) A public official in violation of this chapter is guilty of a misde-  
28          meanor and may be fined up to one thousand dollars (\$1,000) and up to six (6)  
29          months in jail.

30          74-606. VALIDITY OF ELECTION CHALLENGED. Whenever the attorney gen-  
31          eral, county prosecutor or special prosecutor has determined that this chap-  
32          ter has been violated, and such violation aided in the passage of a bond, levy  
33          or any other tax or question, a taxpayer of the jurisdiction where the viola-  
34          tion occurred shall have standing to file, or cause to be filed, a petition  
35          in the district court in and for the judicial district in which the political  
36          subdivision is located wholly or in part, praying a judicial examination and  
37          determination of the validity of the election. The court shall hold hear-  
38          ings as necessary to examine the extent of the governmental interference in  
39          the election. The court shall take into account the amount of time, money  
40          and other resources utilized in violation of this chapter and shall render a  
41          judgment and decree either declaring the election valid or that the election  
42          is null, void and of no force or effect.

43          74-607. APPEAL OF JUDGMENT. Appeal of the judgment of the court may be  
44          had as in other civil cases as provided by court rule.