

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 189, As Amended

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO USE OF PUBLIC FUNDS IN BOND AND LEVY ELECTIONS; AMENDING TITLE
2 74, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 6, TITLE 74, IDAHO CODE,
3 TO PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE INTENT, TO PROHIBIT THE
4 USE OF PUBLIC FUNDS IN BOND AND LEVY ELECTIONS, TO PROVIDE FOR VIOLA-
5 TIONS AND TO PROVIDE FOR A CHALLENGE ON THE VALIDITY OF A BOND OR LEVY
6 ELECTION.
7

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 BOND AND LEVY ELECTIONS ACT

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

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

22 74-603. PUBLIC FUNDS IN BOND AND LEVY ELECTIONS PROHIBITED. (1) Pub-
23 lic funds and/or property may not be used by a government entity, its offi-
24 cers or agents in supporting, opposing, or promoting a bond or levy election
25 except as provided in subsection (2) and (3) of this section. Nothing in this
26 chapter shall prohibit individuals from using public grounds or facilities
27 that are available to the general public for political purposes, nor does it
28 prohibit public employees or elected officials from exercising their right
29 to free speech in advocating for or against a bond or levy election.

30 (2) Public funds and property may be used to inform voters of elec-
31 tion-related information including, but not limited to: election notifi-
32 cations as required by Idaho Code, dates and locations of forthcoming elec-
33 tions, voter registration requirements, absentee and early voting details,
34 and bond and levy disclosures pursuant to sections 34-439 and 34-439A, Idaho
35 Code.

36 (3) For property tax proposals, nothing shall prohibit the use of pub-
37 lic funds or property to provide voters with the expected costs of the bond
38 or levy per one hundred thousand dollars (\$100,000) of taxable value and the
39 current tax per one hundred thousand dollars (\$100,000) of taxable value.

1 74-604. VIOLATIONS. (1) The attorney general shall have the duty to
2 enforce this chapter.

3 (2) A public official in violation of this chapter is guilty of a misde-
4 meanor and may be fined up to one thousand dollars (\$1,000) and may be ordered
5 to pay restitution pursuant to section 19-5304, Idaho Code.

6 74-605. VALIDITY OF ELECTION CHALLENGED. (1) The attorney general,
7 a county prosecutor or a qualified elector of the applicable jurisdiction
8 shall have standing to challenge an election that involves a violation of
9 this section. A challenge to an election shall be filed by the attorney
10 general, a prosecutor or an elector and reviewed by the court pursuant to
11 chapter 20, title 34, Idaho Code.

12 (2) If the court finds that a violation of this section occurred, and
13 that it is more likely than not that the result of the election would have
14 been different had the violation not occurred, then the court shall order
15 that the election is null, void, and of no force and effect.

16 (3) If the court finds that a violation of this section occurred, the
17 plaintiff shall be entitled to costs and reasonable attorney's fees and
18 shall be considered the prevailing party regardless of whether or not the
19 violation affected the outcome of the election.