TITLE 74
TRANSPARENT AND ETHICAL GOVERNMENT

CHAPTER 6
PUBLIC INTEGRITY IN ELECTIONS ACT

74-601. SHORT TITLE. This act shall be known and may be cited as the "Public Integrity in Elections Act."

[74-601, added 2018, ch. 260, sec. 1, p. 616.]

74-602. LEGISLATIVE INTENT. The legislature finds that it is against the public policy of the state of Idaho for public funds, resources or property to be used to advocate for or against a candidate or ballot measure.

[74-602, added 2018, ch. 260, sec. 1, p. 616.]

74-603. DEFINITIONS. As used in this chapter:

(1)(a) "Advocate" means to campaign for or against a candidate or the outcome of a ballot measure.

(b) "Advocate" does not mean providing factual information about a ballot measure and the public entity's reason for the ballot measure stated in a factually neutral manner. Factual information includes but is not limited to the cost of indebtedness, intended purpose, condition of property to be addressed, date and location of election, qualifications of candidates, or other applicable information necessary to provide transparency to electors.

(2) "Ballot measure" means constitutional amendments, bond measures, or levy measures.

(3) "Candidate" means and includes every person for whom it is contemplated or desired that votes be cast at any political convention, primary, general, local, or special election and who either tacitly or expressly consents to be so considered.

(4) "Expenditure" means:

(a) A purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value; or

(b) A legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value.

(5) "Property or resources" means goods, services, equipment, computer software and hardware, college extra credit, other items of intangible property, or facilities provided to or for the benefit of a candidate, a candidate's personal campaign committee, a political issues committee for political purposes, or advocacy for or against a ballot measure or candidate. Public property or resources that are available to the general public, at such times and in such manner as they are available to the general public, are exempt from this exclusion and may be used by a political party as defined in section 34-109, Idaho Code, provided that all political parties are given equal and fair access.

(6) "Public entity" means the state, each state agency, county, municipality, school district, state institution of higher learning, or other taxing district or public corporation empowered to submit ballot measures to its electors.

(7) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

(8) "Public official" means an elected or appointed member of a public entity who has:

(a) Authority to make or determine public policy;

(b) Supervisory authority over the personnel and affairs of a public entity; or

(c) Authority to approve the expenditure of funds for the public entity.

(9) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, or other administrative unit of the state.

[74-603, added 2018, ch. 260, sec. 1, p. 616; am. 2021, ch. 291, sec. 1, p. 871; am. 2022, ch. 179, sec. 1, p. 582.]

74-604. PUBLIC FUNDS PROHIBITED. Unless specifically required by law, and except as provided in this chapter:

(1) Neither a public entity nor its employees shall make, nor shall a public official make or authorize, an expenditure from public funds to advocate for or against a candidate or a ballot measure.

(2) Neither a public entity nor any of its employees shall use, nor shall a public official authorize or use, public property or resources to advocate for or against a candidate or a ballot measure. There shall be an exception to the provisions of this subsection for any elected and currently serving Idaho legislator personally making use of public property or resources for the sole purpose of advocating for or against an initiative or referendum. This exemption shall apply only to the legislator's use of public property or resources for communication with the public using electronic or traditional physical correspondence or the use of any portion of any media initially produced using public property or resources from recordings of the legislature or any legislative committees. This exception shall not apply to any travel-related expenses or any advocacy for or against a candidate.

(3) Neither a public entity nor any of its employees shall provide or offer to provide, nor shall a public official provide or offer to provide, college extra credit to a student of a state institution of higher learning either:

(a) To encourage a student to vote or not vote; or

(b) To influence a student's vote for or against a candidate or ballot measure.

[74-604, added 2018, ch. 260, sec. 1, p. 617; am. 2021, ch. 291, sec. 2, p. 872; am. 2024, ch. 268, sec. 1, p. 931.]

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

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

(2) A public entity, public official or employee from the neutral encouragement of voters to vote;

(3) An elected official or employee from personally campaigning or advocating for or against a ballot measure, provided no public funds, property or resources are used for supporting the elected official or employee in such activity except as provided in subsection (4) of this section;

(4) An elected and currently serving Idaho legislator personally making use of public property or resources for the sole purpose of advocating for or against an initiative or referendum, provided the use shall only apply to the legislator's use of public property or resources for communication with the public using electronic or traditional physical correspondence or the use of any portion of any media initially produced using public property or resources from recordings of the legislature or any legislative committees, and provided the use does not apply to any travel-related expenses or any advocacy for or against a candidate;

(5) A public entity from preparing and distributing to electors an objective statement explaining the purpose and effect of the ballot measure, including in the case of bond or levy elections the cost per taxpayer or taxable value, or similar information based on reasonable estimates prepared in good faith;

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

(7) The publication of information described in sections 34-913, 34-914, and 34-1406, Idaho Code, as applicable, or other provisions of law requiring notices and disclosures in connection with elections and ballot measures; or

(8) A balanced student classroom discussion or debate of current or pending election issues.

[74-605, added 2018, ch. 260, sec. 1, p. 617; am. 2021, ch. 288, sec. 6, p. 866; am. 2024, ch. 268, sec. 2, p. 931.]

74-606. VIOLATIONS -- REMEDIES. (1) Any public official or employee who conducts or participates in an activity that violates the provisions of this chapter shall be subject to a civil penalty not to exceed two hundred fifty dollars ($250).

(2) Any public official or employee who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars ($1,500).

(3) Any public official or employee who knowingly violates any provision of this chapter and who has previously admitted to committing or has been previously determined to have committed a violation pursuant to subsection (2) of this section within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed two thousand five hundred dollars ($2,500).

(4) The attorney general shall have the duty to enforce this chapter in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this chapter in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this chapter, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose, as provided in section 31-2603, Idaho Code.

[74-606, added 2018, ch. 260, sec. 1, p. 618.]