

IN THE SENATE

SENATE BILL NO. 1376

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO PUBLIC OFFICIALS; AMENDING SECTION 74-604, IDAHO CODE, TO PRO-
2 VIDE AN EXCEPTION FOR CERTAIN PUBLIC OFFICIALS FOR THE USE OF PUBLIC
3 PROPERTY OR RESOURCES WHILE ADVOCATING FOR OR AGAINST AN INITIATIVE OR
4 REFERENDUM AND TO PROVIDE CONDITIONS; AMENDING SECTION 74-605, IDAHO
5 CODE, TO REVISE A PROVISION REGARDING CAMPAIGNING OR ADVOCACY FOR OR
6 AGAINST AN INITIATIVE OR REFERENDUM, TO PROVIDE THAT USE OF PUBLIC
7 PROPERTY AND RESOURCES BY CERTAIN PUBLIC OFFICIALS ADVOCATING FOR OR
8 AGAINST AN INITIATIVE OR REFERENDUM SHALL NOT BE PROHIBITED, AND TO PRO-
9 VIDE CONDITIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
10 DATE.
11

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

13 SECTION 1. That Section 74-604, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 74-604. PUBLIC FUNDS PROHIBITED. Unless specifically required by
16 law, and except as provided in this chapter:

17 (1) Neither a public entity nor its employees shall make, nor shall a
18 public official make or authorize, an expenditure from public funds to advo-
19 cate for or against a candidate or a ballot measure.

20 (2) Neither a public entity nor any of its employees shall use, nor
21 shall a public official authorize or use, public property or resources to
22 advocate for or against a candidate or a ballot measure. There shall be an
23 exception to the provisions of this subsection for any acting Idaho legis-
24 lator personally making use of public property or resources for the sole
25 purpose of advocating for or against an initiative or referendum. This
26 exemption shall apply only to the legislator's use of public property or
27 resources for communication with the public using electronic or traditional
28 physical correspondence or the use of any portion of any media initially
29 produced using public property or resources from recordings of the legisla-
30 ture or any legislative committees. This exception shall not apply to any
31 travel-related expenses or any advocacy for or against a candidate.

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

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

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

39 SECTION 2. That Section 74-605, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 74-605. EXCLUSIONS. Nothing in this chapter shall prohibit:

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

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

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

13 (4) An acting Idaho legislator personally making use of public property
14 or resources for the sole purpose of advocating for or against an initiative
15 or referendum, provided the use shall only apply to the legislator's use of
16 public property or resources for communication with the public using elec-
17 tronic or traditional physical correspondence or the use of any portion of
18 any media initially produced using public property or resources from record-
19 ings of the legislature or any legislative committees, and provided the use
20 does not apply to any travel-related expenses or any advocacy for or against
21 a candidate;

22 ~~(4)~~ (5) A public entity from preparing and distributing to electors an
23 objective statement explaining the purpose and effect of the ballot measure,
24 including in the case of bond or levy elections the cost per taxpayer or tax-
25 able value, or similar information based on reasonable estimates prepared in
26 good faith;

27 ~~(5)~~ (6) The formulation and publication of statements regarding pro-
28 posed amendments to the state constitution, as authorized by section 67-453,
29 Idaho Code;

30 ~~(6)~~ (7) The publication of information described in sections 34-913,
31 34-914, and 34-1406, Idaho Code, as applicable, or other provisions of law
32 requiring notices and disclosures in connection with elections and ballot
33 measures; or

34 ~~(7)~~ (8) A balanced student classroom (8) discussion or debate of current or
35 pending election issues.

36 SECTION 3. An emergency existing therefor, which emergency is hereby
37 declared to exist, this act shall be in full force and effect on and after
38 July 1, 2024.