



# IDAHO FREEDOM FOUNDATION

March 4, 2019

Mr. Paul Withers  
Prosecuting Attorney, Lemhi County  
1301 Main Street, Ste. 6  
Salmon, ID 83467

Dear Mr. Withers:

I write to you today in concern of a possible Public Integrity in Elections Act violation.

According to Idaho law (Title 74, Chapter 6), “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.”

During the past year, Salmon School District #291 has entered into three contracts with Rich Bauscher of The Facility Planners. I write today in regard to their second contract, entered into on or around July 2018, for educational consultant services for the March 12, 2019 school bond measure.

Salmon, Idaho, residents have sent me letters between Rich Bauscher and Chris Born, superintendent of the Salmon School District. Upon analysis of these communications, I believe public funds were used by the school district to advocate for a “Yes” vote on the upcoming bond.

In the communications, Bauscher outlines his scope of consultant work for the district. One such activity: “Meet with the Superintendent to review [his] proven ten (10) step process in the running of a bond issue.”

A part of his process is to: “Assist in the organization of a pre-bond Ad Hoc Citizens Committee by defining the duties of the eleven (11) officers and presenting the overall bond election concepts, strategies and various templates for their utilization.” This task indicates that Bauscher intentionally wanted to assist the school district in forming an ad hoc committee.

Bauscher also refers to the task of: “attend[ing a] meeting with Salmon School District Administrators/ Principals and a pre-bond Ad Hoc Citizens Committee to help answer questions and guide these 11 officers, providing them with the many different bond campaign templates (as they are requested).” Clearly, the consultant intended to work with the committee that he helped organize, and provide materials to the members.

Bauscher also wrote about a task he would be hired to do, specifically for the committee: “Review the voting data from the past two election(s) in order to mathematically set up the targeted number of votes that will be cast. This figure will be utilized by the Ad Hoc Committee.”

Currently, the committee that was organized by Bauscher is advocating for a “Yes” vote on the bond measure. The District 291 School Bond Committee, a private entity, currently runs a website (<https://sites.google.com/view/salmon-school-bond/home?authuser=0>) that advocates for a “Yes” vote on the March 12

bond measure. As of March 1, 2019, the website states in eight different places that readers should “Vote Yes!” At the bottom of this website, a notice reads: “This website was created and is rigorously being maintained by the Salmon Ad Hoc Committee (Community Members).” From communications with Salmon residents, I have learned that this is the committee that Bauscher helped organize.

Thus, I believe there has been an violation of law, where the Salmon School District, as a government entity, has hired a consultant to advocate for a vote in a way that the district cannot. The consultant position is a pipeline for advocacy, where the school district hires a consultant, who organizes a committee, which advocates for a “Yes” vote.

I suspect this tactic is intentional because, in their communications, Bauscher told Born that his consultant fee will be approximately \$9,000. However, his final fee will be higher if the bond passes than if it fails. This gives the consultant a motivation to do what he can to get the bond passed.

Title 74, Chapter 6 of Idaho clearly states, 1) “[N]either a public entity nor its employees shall make...an expenditure from public funds to advocate for or against a candidate or a ballot measure” and 2) “Neither a public entity nor any of its employees shall use...public property or resources to advocate for or against a candidate or a ballot measure.”

It is illegal for the Salmon School District to use public funds to either directly advocate for a measure or provide resources for advocacy. To hire a consultant who is charged with forming and guiding an Ad Hoc Committee, as well as providing materials and calculations to its members, is in violation of both of the legal restrictions listed above—and thus a violation of electioneering law.

I urge you to promptly investigate this potential violation and provide the proper legal follow up. I respectfully request a response by March 8, based on the approaching election date.

Sincerely,



Lindsay Atkinson

Policy Analyst

Idaho Freedom Foundation