

# POLITICAL ACTIVITIES AND PUBLIC OFFICIALS



PRESENTED BY

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# POLITICAL ACTIVITIES

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Except as otherwise provided in this chapter, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of a ... local agency.

Gov't Code §3203





# OVERVIEW

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- Whose activities can be restricted
- Restrictions on campaign contributions
- Restrictions on use of public resources
- Restrictions on ballot measure activities

# WHOSE ACTIVITIES MAY BE RESTRICTED?

## RESTRICTIONS APPLY TO ALL OFFICERS AND EMPLOYEES OF:

Gov't Code §3202

### "Local agency"

County, city, political subdivision, district other than a school district, or municipal corporation.

### "State agency"

Every state office, department, division, bureau, board, commission, superior court, court of appeal, the Supreme Court, the California State University, the University of California, and the Legislature.

# RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS

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ACCEPTING, SOLICITING,  
AND DIRECTING  
CAMPAIGN CONTRIBUTIONS

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# RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS

GENERALLY

## **NO USE OF AUTHORITY OR INFLUENCE IN EXCHANGE FOR A CONTRIBUTION OR VOTE**

Gov't Code §3204

## **NO INCREASE IN SALARY OR COMPENSATION FOR A CONTRIBUTION**

Gov't Code § 3205.5

## **NO OFFERING, PROMISING, OR GIVING EMPLOYMENT IN EXCHANGE FOR A VOTE**

Election Code §18520

## **NO SOLICITATION OF CONTRIBUTIONS FROM AGENCY OFFICERS OR EMPLOYEES**

Gov't Code §3205 (a) and (b)

# RESTRICTIONS ON CAMPAIGN CONTRIBUTIONS

GOV. CODE § 84308

## **NO SOLICITING, DIRECTING, OR ACCEPTING CONTRIBUTIONS OF MORE THAN \$250 FROM PARTIES, PARTICIPANTS, AND AGENTS IN CERTAIN PROCEEDINGS**

- Licenses, permits, most contracts, and other entitlements for use.
- Prohibition applies while the proceeding is pending, and for 12 months after the final decision.

## **RECUSAL REQUIRED IF THE OFFICER RECEIVED A CAMPAIGN CONTRIBUTION OF MORE THAN \$250 WITHIN THE 12 MONTHS BEFORE THE PROCEEDING**

- Cannot make, participate in making, or attempt to use the officer's position to influence a decision.
- Required to disclose receipt of the contribution during the public meeting.

# RESTRICTIONS ON USE OF PUBLIC RESOURCES

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Neither a local agency nor an agency official can use public funds/resources to promote one side or the other in an election campaign.

*Stanson v. Mott* (1976) 17 Cal.3d 206

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# RESTRICTIONS ON USE OF PUBLIC RESOURCES



## **NO USE OF PUBLIC RESOURCES TO PROMOTE A PARTISAN POSITION WITHOUT CLEAR AND EXPLICIT LEGAL AUTHORIZATION**

*Stanson v. Mott* (1976) 17 Cal.3d 206, 209-210

## **NO USE OR PERMISSION FOR OTHERS TO USE PUBLIC RESOURCES FOR PERSONAL PURPOSES OR CAMPAIGN ACTIVITY THAT IS NOT AUTHORIZED BY LAW**

Gov't Code §8314

# RESTRICTIONS ON USE OF PUBLIC RESOURCES

## “Public Resources”

- Agency Equipment – phones, computers, copiers, vehicles, etc.
- Agency Supplies – paper, pens/pencils, envelopes, etc.
- Agency Space – personal offices, conference rooms, etc.
- Agency Funds
- Agency Staff Time

## EXAMPLES OF PROHIBITED USE OF PUBLIC RESOURCES:

### Office Supplies and Equipment

Print flyers on an agency printer paper, taking pens and paper clips for use at a campaign office, or use agency copiers to make oversized copies, place political stickers on agency vehicles or use agency vehicles during or off duty hours for any type of political activities

### Office Space

Hold political meetings, organize political events, prepare arguments, ballot statements, advertisements, and other such political activities at the office, decorate cubicles or use office space to display personal political preferences

# RESTRICTIONS ON BALLOT MEASURE ACTIVITIES

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**Permissible and Impermissible Activities  
Before and After Ballot Measure  
Qualifies, Including Use of Consultants**



# USE OF PUBLIC RESOURCES FOR BALLOT MEASURES

## BEFORE QUALIFICATION

### A PUBLIC AGENCY MAY USE PUBLIC FUNDS TO:

- Propose and draft the ordinance, resolution, and measure;
- Sponsor or seek a sponsor for a ballot measure if one is required;
- Inform the public of the need for the ballot measure;
- Express a position with regard to the merits of the proposed ballot measure at a public meeting;
- Hire a consultant to conduct surveys and to establish focus groups to assess the potential support and opposition to the measure or to gauge public awareness of the need for the measure; and
- Investigate potential problems, expenses, and alternatives associated with the proposed ballot measure.

# USE OF PUBLIC RESOURCES FOR BALLOT MEASURES

BEFORE  
QUALIFICATION

## A PUBLIC AGENCY **MAY NOT** USE PUBLIC FUNDS:

- For activities that are intended to develop or to implement a campaign to built public support for the measure, such as hiring a consultant for this purpose.

# USE OF PUBLIC RESOURCES ON BALLOT MEASURES

## AFTER QUALIFICATION

### AFTER QUALIFICATION, A PUBLIC AGENCY **MAY** USE PUBLIC FUNDS TO PROVIDE RELEVANT INFORMATION TO THE PUBLIC.

- A fair and impartial representation including: all consequences, good and bad, of the proposal, not only the anticipated improvement.
- Cannot be in "style, tenor, and timing" of a traditional campaign activity.

### AFTER QUALIFICATION, A PUBLIC AGENCY **MAY NOT** USE PUBLIC FUNDS TO:

- Create or distribute bumper stickers, billboards, or mass media advertising.
- Facilitate door-to-door canvassing.
- Hire a consultant to campaign for or against a ballot measure.

# RESTRICTIONS ON USE OF PUBLIC RESOURCES

## PENALTIES

### PERSONAL LIABILITY

*Stanson v. Mott* (1976) 17 Cal.3d 206

- A public official or employee who, in good faith, authorizes the unlawful expenditure of public funds for promotional activities is personally liable to repay such funds if he or she failed to exercise “due care”:
  - Was the impropriety of the expenditure obvious?
  - Was the official or employee alerted to the possible invalidity of the expenditure?
  - Did the official or employee rely on legal advice?

### PENALTY AMOUNTS

Gov’t Code §8314

- A public official or employee who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars for each day on which a violation occurs, and three times the value of the unlawful use of public resources.
- Only the Attorney General, District Attorney, or City Attorney may file such a lawsuit; a private litigant does not have standing to bring a claim under this section.



# QUESTIONS?

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