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**GOVERNMENT CODE - GOV**

**TITLE 5. LOCAL AGENCIES [50001 - 57607]** ( Title 5 added by Stats. 1949, Ch. 81. )

**DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]** ( Division 2 added by Stats. 1949, Ch. 81. )

**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]** ( Part 1 added by Stats. 1949, Ch. 81. )

**CHAPTER 9.5. Unlawful Expenditures [54964 - 54964.5]** ( Chapter 9.5 added by Stats. 2000, Ch. 840, Sec. 1. )

**54964.** (a) An officer, employee, or consultant of a local agency may not expend or authorize the expenditure of any of the funds of the local agency to support or oppose the approval or rejection of a ballot measure, or the election or defeat of a candidate, by the voters.

(b) As used in this section the following terms have the following meanings:

(1) "Ballot measure" means an initiative, referendum, or recall measure certified to appear on a regular or special election ballot of the local agency, or other measure submitted to the voters by the governing body at a regular or special election of the local agency.

(2) "Candidate" means an individual who has qualified to have his or her name listed on the ballot, or who has qualified to have write-in votes on his or her behalf counted by elections officials, for nomination or election to an elective office at any regular or special primary or general election of the local agency, and includes any officeholder who is the subject of a recall election.

(3) "Expenditure" means a payment of local agency funds that is used for communications that expressly advocate the approval or rejection of a clearly identified ballot measure, or the election or defeat of a clearly identified candidate, by the voters. "Expenditure" shall not include membership dues paid by the local agency to a professional association.

(4) "Local agency" has the same meaning as defined in Section 54951, but does not include a county superintendent of schools, an elementary, high, or unified school district, or a community college district.

(c) This section does not prohibit the expenditure of local agency funds to provide information to the public about the possible effects of a ballot measure on the activities, operations, or policies of the local agency, if both of the following conditions are met:

(1) The informational activities are not otherwise prohibited by the Constitution or laws of this state.

(2) The information provided constitutes an accurate, fair, and impartial presentation of relevant facts to aid the voters in reaching an informed judgment regarding the ballot measure.

(d) This section does not apply to the political activities of school officers and employees of a county superintendent of schools, an elementary, high, or unified school district, or a community college district that are regulated by Article 2 (commencing with Section 7050) of Chapter 1 of Part 5 of the Education Code.

(Added by Stats. 2000, Ch. 840, Sec. 1. Effective January 1, 2001.)

**54964.5.** (a) A nonprofit organization or an officer, employee, or agent of a nonprofit organization shall not use, or permit another to use, public resources received from any local agency to make a contribution or expenditure not authorized by law.

(b) As used in this section and Section 84222.5, the following terms have the following meanings:

(1) "Local agency" has the same meaning as that term is defined in paragraph (4) of subdivision (b) of Section 54964 and shall also include a public entity created pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1) by one or more entities described in Section 54964.



(2) "Nonprofit organization" means an entity incorporated under the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) or a nonprofit organization that qualifies for tax-exempt status under Section 115 or 501(c) of the federal Internal Revenue Code. "Nonprofit organization" does not include a nonprofit organization that qualifies for tax-exempt status under Section 501(c)(3) of the federal Internal Revenue Code.

(3) "Public resources" means either of the following:

(A) Any property or asset owned by a local agency, including, but not limited to, cash, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and local government compensated work time that is provided to a nonprofit organization, except funds received in exchange for consideration for goods or services.

(B) Funds received by a nonprofit organization that have been generated from any activities related to conduit bond financing by those entities subject to the conduit financing and transparency and accountability provisions of Chapter 10.7 (commencing with Section 5870) of Division 6 of Title 1, whether or not those funds are received by the nonprofit organization in exchange for consideration for goods or services.

(4) "Publicly funded nonprofit organization" means a nonprofit organization for which public resources from one or more local agencies account for more than 20 percent of the nonprofit organization's annual gross revenue in the current fiscal year or either of the previous two fiscal years.

(5) "Use" means a use of public resources from one or more local agencies that is substantial enough to result in a gain or advantage to the user or a loss to a local agency for which a monetary value may be estimated.

(c) This section does not prohibit the use of public resources for expenditures authorized by law, including all of the following:

(1) The costs of adopting a position or resolution supporting or opposing a clearly identified ballot measure or candidate, including posting the position or resolution on the nonprofit organization's Internet Web site, communicating the position or resolution to members of the nonprofit organization, or issuing a press statement.

(2) Incidental or minimal use of public resources.

(3) Incidental costs related to the establishment or administration of a sponsored committee, as defined in Section 82048.7. A reasonable accounting method may be used to determine the use of nonpublic resources to pay for that cost. For purposes of this paragraph, "establishment and administration" means the cost of office space, telephones, salaries, utilities, supplies, legal and accounting fees, and other expenses incurred in establishing and operating a sponsored committee.

(4) Providing information to the public about the possible effects of a ballot measure on the activities, operations, or policies of the state or a local agency if the informational activities meet both of the following conditions:

(A) The informational activities are not otherwise prohibited by the California Constitution or the laws of this state.

(B) The information provided constitutes an accurate, fair, and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the ballot measure.

(d) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for a violation, they shall be jointly and severally liable for the penalty. If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasury of that city.

(2) A civil action alleging a violation of this section shall not be commenced more than four years after the date of the alleged violation.

*(Amended by Stats. 2016, Ch. 825, Sec. 1. (AB 2318) Effective January 1, 2017.)*