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## **Legal Issues Associated with Legislative Advocacy**

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## **Legal Issues Associated with Legislative Advocacy**

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### **Introduction: Advocacy by Local Government**

Local government agencies and officials are often keenly interested in the legislative and administrative activities of other governmental entities. Whether supporting or opposing legislation or trying to influence administrative action, local government advocates often find themselves competing with a myriad of interest groups for the attention of legislators and other decision-makers. California cities and other local agencies have the right and the statutory authority to lobby the Legislature and Congress, as well as state, federal and local executive and administrative agencies. Because the laws that regulate lobbying by local government agencies are more restrictive than the laws that govern private lobbyists, however, non-governmental lobbyists have more opportunities to communicate their messages.

The intent of this paper is to provide an overview of the basic legal issues associated with legislative and administrative advocacy by local government agencies, their officials and representatives. The primary focus of this paper is on activities within the state legislative, administrative and executive decision-making processes, as this appears to be a priority for many local government agencies. My intent is to provide some basic guidance to local officials who want to help shape new laws and oppose potentially harmful laws about the limits the law places on those activities. Local government officials who are involved with lobbying Congress or other federal agencies should be aware that different definitions, reporting requirements and restrictions apply, and that federal lobbying rules can vary based on the official or agency being lobbied.

### **The Law of Legislative and Administrative Advocacy**

Local government agencies have specific statutory authority to make their positions on legislative and administrative matters known to legislative and administrative decision-makers. Government Code Section 50023 provides:

“The legislative body of a local agency, directly, or through a representative, may attend the Legislature and Congress, and any committee thereof, and present information to aid the passage of legislation which the legislative body deems beneficial to the local agency or to prevent the passage of legislation which the legislative body deems detrimental to the local agency. The legislative body of a local agency, directly or through a representative, may meet with representatives of executive or administrative agencies of state, federal, or local government to present information requesting action which the legislative body deems beneficial to, or opposing action deemed detrimental to, such local agency. The cost and expense incident thereto are proper charges against the local agency.”

In addition to lobbying on their own, local government agencies are permitted to enter into associations with other parties to lobby in favor of or against matters of interest to the members of the association.<sup>1</sup> Again, the costs and expenses of participating in such an association are permissible local government expenditures as long as the legislative and administrative aims of the association involve items that will directly affect the local government agency, either beneficially or detrimentally.<sup>2</sup> By resolution, a local agency may withdraw from membership in this type of association at any time.<sup>3</sup> Local agencies can contribute to this type of association even if some of the association's funds may be used for more broad public outreach and marketing purposes.<sup>4</sup> When ten or more entities pool their funds to hire a lobbyist or undertake lobbying activities, the Political Reform Act classifies that group as a "lobbying coalition."<sup>5</sup> The League of Cities is a prime example of a "lobbying coalition" and a city's expenditure for the costs of membership in the League is a proper exercise of the power to associate for lobbying purposes under Government Code Section 50024.<sup>6</sup>

The basic authority the Legislature gave local government to participate in legislative and administrative decision-making is fairly straightforward. Local government officials may contact the legislature, Congress, committees and individual legislators to make the case for or against legislation that the legislative body deems to be either beneficial or detrimental to the local agency. Local officials also may ask legislators to take some action that will be beneficial to the local agency. Local officials are permitted to lobby personally, through representatives or as part of an association. The same is true with regard to lobbying administrative and executive decision-makers at the local, state and federal levels. Over the years, however, this fairly broad legislative grant of authority to local government has been narrowed and restricted by the courts, some fairly conservative opinions of the Attorney General, and the Political Reform Act's ("PRA") regulations regarding lobbying.

### **A. The Political Reform Act**

The PRA<sup>7</sup> is a logical place to start in defining the rules that govern what local officials can and cannot do as they advocate on behalf of their agencies. The PRA provides a set of defined terms that are useful in discussing lobbying issues, and it establishes the basic system that requires registration and reporting by individuals and entities that make or receive payments for the purpose of influencing decisions of the State Legislature and administrative agencies. Note however, that the PRA **does not regulate** individuals or entities that lobby the federal government, local and regional agencies.<sup>8</sup>

The basic policy of the PRA in regulating the activities of those who lobby state government is set forth in Government Code Section 81002(b):

“The activities of lobbyists should be regulated and their finances disclosed in order that improper influences will not be directed at public officials.”

Under the PRA, “lobbying” that is subject to registration and reporting consists of four basic elements:

- 1) Direct communication, other than administrative testimony, with legislative or state agency officials;
- 2) By an individual who is compensated for that communication;
- 3) For the purpose of influencing legislative or administrative action;
- 4) On behalf of the person or entity that compensates the lobbyist.

The keys to determining whether contacts with state officials constitute “lobbying” lie in the definitions of “direct communication” and “influencing legislative or administrative action.” Even outside the PRA’s framework for regulating and reporting lobbying activities, courts generally follow these same concepts in analyzing legislative advocacy activities.

The extensive definition of “direct communication” is set out in Title 2 of the California Code of Regulations, Section 18239(d)(3). Briefly summarized, a person can engage in “direct communication” by appearing as a witness before, talking by phone or in person to, corresponding with, or answering questions and inquiries from any state official covered by the PRA. Those state officials include elected officials, legislative officials, appointed and elected members of state agencies, and staff members with key advisory or decision-making authority. The term “direct communication” does not include “administrative testimony” which becomes part of the record of a public hearing before a regulatory or administrative agency. “Direct communication” also does not include the provision of purely technical data or analysis to a state agency at the agency’s request when the person providing the data is not otherwise lobbying that agency. Additionally, a person who meets with a covered state official **in the company of his or her registered lobbyist** is not engaged in “direct communication” and is not considered to be lobbying.

The terms “legislative action” and “administrative action” under the PRA are fairly self-explanatory. The former includes all of the various procedural steps carried out in the legislative process in drafting, considering and deciding on statutes, bills, resolutions and nominations, including the Governor’s decision whether to sign a legislative enactment.<sup>9</sup> The latter includes rule making, rate setting and various quasi-legislative proceedings carried-out by administrative agencies.<sup>10</sup> The FPPC defines “influencing legislative or administrative action as “promoting, supporting, influencing, modifying, opposing or delaying” either type of action by any means.<sup>11</sup>

When an individual satisfies the four elements above **and** receives \$2,000 or more in economic consideration in a calendar month for such services, other than reimbursement for reasonable travel expenses, that individual is a “lobbyist” under the PRA.<sup>12</sup> Alternately, an employee whose principal duties are to communicate directly or through agents with state legislative or agency officials for the purpose of influencing legislative or administrative action also is a “lobbyist.”<sup>13</sup> Such an employee must spend one-third or more of his or her compensated time in direct communication to be considered a “lobbyist.” The former is generally referred to as a “contract lobbyist” and the latter as an “in-house lobbyist.” Elected public officials acting in their official capacities are not “lobbyists” and are not subject to the PRA’s registration and reporting requirements.<sup>14</sup> With a few other exceptions not relevant to this topic, “lobbyists” must register with the Secretary of State and file quarterly reports on their lobbying activities.

Generally, under the PRA, local public agencies can incur registration and reporting requirements as either a “lobbyist employer” or as a member of a “lobbying coalition” or both. In this context, a local public agency that employs and compensates one or more lobbyists, or contracts with a lobbying firm, for the purpose of influencing legislative or administrative action, is a “lobbyist employer.”<sup>15</sup> A group consisting of ten or more persons or entities formed primarily to influence legislative or administrative action, and whose members make payments to that group for the purpose of sharing the expenses of employing a lobbyist or contracting with a lobbying firm, is a “lobbying coalition.”<sup>16</sup> The League of California Cities is a “lobbying coalition” under this definition, and payments of dues to the League that are used to employ lobbyists are reportable under the PRA. A public agency can be both a “lobbyist employer” and a member of a “lobbying coalition” under the PRA’s definitions.

“Lobbyist employers” must register and report their expenditures for lobbying activities quarterly.<sup>17</sup> Members of “lobbying coalitions” that do not otherwise employ or contract with lobbyists (and thus are not “lobbyist employers”) are required to report payments to the coalition for lobbying services **only** when they have spent \$5,000 or more cumulatively in a calendar quarter for the purpose of influencing legislative or administrative action.<sup>18</sup> “Lobbying coalitions” are required to file the same reports as “lobbyist employers” with additional information regarding the identity and contributions of their members.<sup>19</sup>

The information the FPPC requires to be maintained and reported could be the subject of an entire paper and session at this conference. Generally, lobbyists, lobbying firms and lobbying coalitions assist their clients with reporting obligations, and the FPPC conducts numerous seminars on lobbying reporting requirements. Any agreement between a local public agency and a lobbyist or lobbying firm should include a specific requirement that, at a minimum, the lobbyist will assist the client with registration and reporting requirements and record keeping. Generally summarized, state and local government agencies that are required to file reports as “lobbyist employers” or members of “lobbying coalitions” must report:

- 1) The name, business address and telephone number of the filer;
- 2) The total amount of payments to each lobbyist and lobbying firm;
- 3) A description of the specific lobbying interests of the filer;

- 4) Each “activity expense” paid by the filer, which are payments that benefit any state official or a member of his or her immediate family, such as gifts, salary, honoraria, consulting fees, etc.;
- 5) Political contributions made to an elected state officer or candidate (of course, public agencies cannot make political contributions to officers or candidates);
- 6) All payments of \$250 or more in the reporting period for lobbying expenses, and goods and services used by a lobbyist in connection with the lobbying activities; and
- 7) Dues or similar payments made to any organization (such as the League) that makes expenditures equal to 10% of its total budget, or \$15,000 or more during any calendar quarter, to influence legislative or administrative action (which the League reports it does).<sup>20</sup>

In addition to defining what lobbying is and which lobbying activities must be reported, the PRA and other statutes establish some limits on the tactics lobbyists may and may not employ to influence legislative or administrative action. While not an exhaustive list, several items are of particular interest to advocates on behalf of public agencies. Public agency lobbyists may not:

- 1) Contribute public funds to any candidate for elective office. Candidates also are prohibited from accepting such funds;<sup>21</sup>
- 2) Make gifts to one person aggregating more than \$10 in any calendar month;<sup>22</sup>
- 3) Do anything for the purpose of placing a state official under personal obligation to the lobbyist or the lobbyist’s employer;
- 4) Deceive or attempt to deceive a state official with regard to any material fact pertinent to legislative or administrative action or create any fictitious appearance of public favor or disfavor of any proposed legislative or administrative action;
- 5) Represent falsely, either directly or indirectly, that the lobbyist can control the official action of any state officer; or
- 6) Enter into any agreement to compensate a lobbyist that makes payment to the lobbyist contingent upon the defeat, enactment or outcome of any proposed legislative or administrative action.<sup>23</sup>

While the PRA provides a generally applicable statutory framework for legislative and administrative advocacy, the courts and the Attorney General’s office have looked more specifically at the role of public agencies in the process of shaping and making law.

## B. Judicial and Advisory Limitations

Court decisions in this area of the law have focused primarily on the efforts of public agencies to change the law or influence the adoption of new legislation. Of course, laws that affect public agencies can be adopted and amended by the Legislature or directly by the people through the initiative process. To date, courts have not questioned or limited the authority and ability of local government agencies to lobby Congress, the State Legislature and other agencies directly or through lobbyists pursuant to Government Code Section 50023.<sup>24</sup> In addition, it is well-settled that public agencies may pool their resources in an effort to influence legislative or administrative action.<sup>25</sup>

But in the limited number of cases on the issue, the courts have very strictly limited the ability of public agencies to communicate directly with the voters for the purpose of influencing legislative action. These limits have been applied both to efforts by public agencies to convince voters to support or oppose ballot measures and the more traditional idea of “grass roots lobbying.” The restrictive view of public agencies’ authority to approach the public directly in either context arises out of the California Supreme Court’s decision in *Stanson v. Mott*.<sup>26</sup> In that case, the court was presented with the question whether the State Director of Beaches and Parks was authorized to spend public funds to urge the voters to support bond measures that would have enhanced state and local recreational facilities. The court found that such expenditures were not authorized by statute, and that expenditures on one side or another of a partisan political campaign were improper.

In that regard, the court held:

“Underlying this uniform judicial reluctance to sanction the use of public funds for election campaigns rests an implicit recognition that such expenditures raise potentially serious constitutional questions. A fundamental precept of this nation’s democratic electoral process is that the government may not ‘take sides’ in election contests or bestow an unfair advantage on one of several competing factions. A principal danger feared by our country’s founders lay in the possibility that the holders of governmental authority would use official power improperly to perpetuate themselves, or their allies, in office. . . [citations omitted] . . . the selective use of public funds in election campaigns raises the specter of just such an improper distortion of the democratic electoral process.”<sup>27</sup>

The *Stanson* court further held that there is no distinction to be drawn between candidate elections and ballot measure elections in this respect. On a more relevant note for this topic, the court specifically recognized important distinctions between permitted legislative lobbying and impermissible election campaigning. The court held that public agency lobbying, within the limits authorized by statute, in no way undermines or distorts the legislative process. On the other hand, the court held, the use of public funds to influence an election campaign does present a “serious threat to the integrity of the electoral process.”<sup>28</sup> The court relied heavily on its earlier decision in *Mines v. Del Valle*,<sup>29</sup> in which the court held that public expenditures on one side of a ballot measure campaign were “manifestly unjust and unfair.” Significantly, however, the court

noted that public agencies have the authority and the obligation to present objective, non-partisan information to the voters – “a fair presentation of the facts” – about prospective ballot measures.<sup>30</sup>

*Stanson* reaffirmed the authority of government agencies to advocate their legislative positions through direct communication with the government officials being lobbied. The court also held that public funds may not be spent to convince the voters to vote for or against particular ballot measures. While it is difficult to argue with the California Supreme Court’s opinion that public funds cannot be spent to influence the results of elections, an appellate court and the Attorney General’s office have taken a more extended view of *Stanson* to hold that government agencies may not engage in “grass roots” lobbying. In a “grass roots lobbying” effort, the lobbying party communicates with members of the public through various means and urges them to contact legislators with messages for or against specific legislative proposals.

In *Miller v. Miller*<sup>31</sup>, the court disapproved of “grass roots” efforts by the California Commission on the Status of Women using public funds to promote the ratification of the Equal Rights Amendment in other states. The court found that the Commission’s public information campaign, rallies, and other activities in support of proposed legislative actions was more analogous to election campaigning than legislative lobbying, because the Commission’s efforts were focused on communicating with the voters rather than the legislatures directly.

The court concluded that the “real issue” to be determined under *Stanson* was not the objective of the informational activity, but the audience to which the communication was directed. In invalidating the Commission’s expenditures, the court held:

“It is one thing for a public agency to present its point of view to the Legislature. It is quite another for it to use the public treasury to finance an appeal to the voters to lobby their Legislature in support of the agency’s point of view. The latter undermines or distorts the legislative process just as clearly as the use of the public treasury to mount an election campaign distorts the integrity of the electoral process.”<sup>32</sup>”

The *Miller* court’s decision regarding grass roots lobbying has not been subsequently challenged, leaving no opportunity to question the logic of the “audience vs. objective” theory the court advanced. The Attorney General’s office has relied heavily on *Miller* to reaffirm its opinion that public funds may not be spent on “grass roots lobbying” efforts unless specifically authorized by statute.<sup>33</sup> In addition, *Miller* left some important questions unanswered. For example, Government Code Section 50023 permits local government agencies to lobby directly or through “representatives.” Although many people assume the term “representative” refers only to “lobbyist,” there appears to be no authority for such a limitation. If a local government decides it wants to be “represented” before the Legislature by the volunteer presidents of local homeowners associations or business people, for example, the law does not appear to prevent that representation. But local government officials would have to undertake some effort to recruit those representatives, and it is unclear whether that recruitment would constitute “grass roots” lobbying under *Miller*.

Since *Miller*, it has been accepted that while local governments can lobby the Legislature, communications directed to the voters regarding legislative issues must be limited to impartial information. In later cases, the *Stanson* court's opinion regarding the ability of public agencies to provide impartial information on legislative issues at public expense has been examined in somewhat greater detail. In *League of Women Voters v. Countywide Criminal Justice Coordination Committee*,<sup>34</sup> the court held that while the government has legitimate rights in informing, educating and persuading the public, it simply may not use public funds as an advantage over the free speech rights of the public.<sup>35</sup> The case also stands for the proposition that a government agency may spend public funds to draft and find a sponsor for an initiative measure that furthers the interests of that agency. The court found that drafting a measure is more akin to lobbying than partisan campaign activity. In *California Common Cause v. Duffy*,<sup>36</sup> the court held that a local sheriff's use of public facilities and personnel to distribute postcards critical of then-Chief Justice Rose Bird was "political" and not "informational" as permitted by *Stanson* because the cards presented only one side of Justice Bird's fitness to be retained in office. For some time, and based on these cases, local government officials have struggled to determine whether communication materials distributed to the public were "impartial enough" to pass muster under *Stanson*.

A recently decided case, *Schroeder v. City Council of Irvine*,<sup>37</sup> provides the best guidance yet and the clearest standard for determining whether a particular public communication constitutes "election campaigning" or an "impartial presentation of the facts" under *Stanson*. In *Schroeder*, the Irvine City Council commissioned an effort to increase voter registration and voter participation in connection with a Countywide vote on the reuse of a closed military facility. Although the City had taken a public position in favor of the proposed ballot measure, the materials it distributed did not advocate any particular vote on the measure and rarely mentioned the measure at all. A taxpayer challenged the expenditures as illegal "partisan campaigning" under *Stanson*. The court held that the City's expenditures would have been unlawful under *Stanson* only if the communications **expressly advocated, or taken as a whole unambiguously urged**, the passage or defeat of the measure.

Because the City of Irvine's communications only urged the reader **to** vote, and not **how to** vote, the *Schroeder* court held, the City had not violated *Stanson*. Further, although the petitioner argued that the unambiguous implication of the City's communications was for a yes vote, the court held that when reasonable minds can differ as to the message being conveyed, there has been no "express advocacy" in violation of *Stanson*. The court also held that cities are not prohibited from spending public funds to encourage voter registration if the city council determines there is a public purpose in doing so. *Schroeder* is important because it is the first reported case to apply the "express advocacy" standard to public agency communications to the voters. While the case arose in the context of a ballot measure election, *Schroeder's* interpretation of *Stanson* may have some bearing on public communications regarding non-election issues as well. Certainly, *Schroeder* provides guidance to local officials on the difficult issue of what information public agencies can disseminate in connection with ballot measure elections.

## **Getting Local Government's Message Out**

Obviously, private and non-profit entities have certain advantages over public agencies in lobbying state, local and federal governmental agencies. Public agency advocates must find ways to communicate with government decision-makers who work within the PRA's lobbying framework that do not run afoul of *Stanson* and *Miller*. The time-honored and traditional lobbying techniques of testifying before legislative committees, monitoring bills, presenting written evidence and input, and maintaining personal contacts between local officials and state officials, reported pursuant to the PRA, still provide the best opportunity to influence legislative and administrative action.

In addition to complying with the basic registration and reporting requirements outlined above, public agencies are prohibited from making political contributions to enhance their stature in the lobbying process. Similarly, public agencies may not spend public funds to support or oppose ballot measures. Those well-founded rules, and the lack of any corresponding limit on the activities of interest groups, employee organizations and other private advocates, may create a certain disadvantage in the legislative process. Because the consequences for violations of those rules are severe, however, and the public policy is sound, compliance is in the public agency's best interest. As the law regarding lobbying evolves, however, there may be some more creative ways for public agencies to participate in the legislative process, including:

- 1. Facilitate "grass roots" lobbying activities without using City resources through a non-public advocacy group.**

As noted above, there are fewer legal restrictions on the advocacy activities of private individuals and entities. If local advocacy groups are formed or exist in communities without the use of public funds, there is no legal reason to preclude the private organization from coordinating its "grass roots" activities with the legislative positions of a public entity.

Public officials will be more familiar with this concept in the context of committees formed to support or oppose local ballot measures. Those privately funded groups can spend money to urge voters to support or oppose measures or committees. The same concept could work in a lobbying effort.

Public officials and staff, on their own time, would be free to participate in privately funded "grass roots" lobbying efforts. In a purely informational capacity, staff members also could provide information to such groups about the public agency's official legislative priorities and positions.

- 2. In an impartial informational capacity, inform the public about the public agency's legislative priorities and positions.**

*Stanson* and other cases acknowledge that public agencies have the authority and responsibility to provide information to the public about legislative issues. The *Schroeder* case holds that public information is not "political" if the message does not contain "express advocacy."

Although those cases arise in the context of laws **the voters** are considering, the theory would seem to apply to legislation pending in the Legislature as well.

It appears that public entities may expend public funds to inform the public about the public agency's legislative priorities and positions in a factual, impartial way. That impartial information could be presented in public meetings and in publications such as city newsletters. Public agencies should be cognizant of the need to scrupulously avoid communications that could be viewed as "express advocacy," such as urging a recipient to contact a legislator or take some other action to support or oppose a particular legislative action.

Having received accurate factual and impartial information about pending legislation, members of the public might well decide to take independent action consistent with the agency's legislative position. It is critical to remember that even impartial public communications must comply with the lobbying disclosure rules and other laws applicable to public agencies, such as mass mailing rules.

**3. Make staff and elected officials available to respond to requests for information about the public agency's legislative priorities.**

*Stanson* makes it clear that public agencies have the authority to respond to requests for information regarding political issues. *Stanson* also states clearly that the public agency can make staff available to analyze legislative proposals and to explain the agency's position on such issues.

If individuals and groups request information on legislative issues, public agencies could provide detailed information and analysis in writing or in presentations to the persons requesting the information. Community groups could request regular briefings of this type. Again, if community members and groups are provided accurate information regarding the public agency's legislative issues, they might well decide to take private action on those issues.

**4. Recruit community members as volunteer "representatives" to lobby legislative and administrative decision-makers.**

Government Code Section 50023 authorizes local agencies to lobby decision-makers in person or through "representatives." Nothing in the statute requires that such "representatives" be compensated professional lobbyists. Public agencies could recruit and designate community leaders to lobby as "representatives" of the public agency. This type of volunteer participation by members of the community could create additional buy-in with the agency's positions and more activity at the "grass roots" level without the expenditure of public funds.

Volunteer "representatives" would not trigger lobbyist registration and reporting requirements, since the representatives would not be compensated. Government Code Section 50023 provides specifically that local agencies may pay the incidental expenses of lobbying efforts through "representatives."

**5. Participate more actively in “lobbying coalition” activities.**

Government Code Section 50024 and the PRA permit public agencies to join lobbying coalitions and spend money through those coalitions for lobbying purposes. Pursuant to opinions of the Attorney General’s office cited in this paper, lobbying coalitions appear to have more flexibility to spend funds for marketing and “grass-roots” efforts, especially where the lobbying coalitions combine public and private funds.

Again, participants in lobbying coalitions should carefully comply with the registration and reporting requirements of the PRA.

**Conclusion**

Public agencies have the authority to expend public funds to influence legislative or administrative action. Although the laws governing public agency lobbyists are restrictive, public agencies have the ability to follow the law and still effectively advocate for their interests.

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<sup>1</sup> Government Code Section 50024.

<sup>2</sup> *Id.*

<sup>3</sup> Government Code Section 50026.

<sup>4</sup> *See*, 14 Ops.Cal.Atty.Gen 176 (approving of City contributions to a chamber of commerce for marketing and lobbying efforts); 25 Ops.Cal.Atty.Gen. 305 (approving of County contributions to a non-profit group disseminating information to the public and government officials);

<sup>5</sup> Government Code Section 86116.5(a)(3).

<sup>6</sup> *Lehane v. City and County of San Francisco*, (1972) 30 Cal.App.3d 1051.

<sup>7</sup> Government Code Section 81000 – 91015. The PRA’s lobbying provisions are contained in Sections 86100 – 86300.

<sup>8</sup> Congress and Federal agencies have their own registration and reporting requirements for lobbyists. *See generally*, 2 U.S.C. § 267 and 31 U.S.C. § 1352. Similarly many local and regional agencies in California have adopted various agency-specific lobbying laws of which advocates before those agencies should be aware.

<sup>9</sup> Government Code Section 82037.

<sup>10</sup> Government Code Section 82002.

<sup>11</sup> Government Code Section 82032.

<sup>12</sup> Government Code Section 82039.

<sup>13</sup> *Id.*

<sup>14</sup> 2 Cal.Code of Regs. § 18239(c).

<sup>15</sup> Government Code Section 82039.5.

<sup>16</sup> 2 Cal.Code of Regs. § 18616.4.

<sup>17</sup> Government Code Sections 86100, 86114 – 86118.

<sup>18</sup> 2 Cal. Code of Regs. § 18616.4(d).

<sup>19</sup> 2 Cal. Code of Regs. § 18616.4(b).

<sup>20</sup> Government Code Sections 86115 – 86115.5.

<sup>21</sup> Government Code Section 85300 (prohibition on spending or accepting public monies for the purpose of seeking elective office); Penal Code Section 424 (prohibiting the use of public funds for purposes not authorized by law).

<sup>22</sup> Government Code Section 86203.

<sup>23</sup> Government Code Section 86205.

<sup>24</sup> *See generally*, *Powell v. City and County of San Francisco*, (1944) 62 Cal.App.2d 291.

<sup>25</sup> *Lehane*, *supra*, 30 Cal.App.3d 1051; *see also* 42 Ops.Cal.AttyGen. 25 (1963).

<sup>26</sup> *Stanson v. Mott* 17 Cal.3d 206 (1976).

<sup>27</sup> *Stanson*, *supra*, at 217.

<sup>28</sup> *Stanson*, *supra*, at 218.

<sup>29</sup> *Mines v. Del Valle*, (1927) 201 Cal. 273, overruled on other grounds by *Stanson v. Mott*, 17 Cal.3d 206 (1976).

<sup>30</sup> *Stanson*, *supra*, at 220-21.

<sup>31</sup> *Miller v. Miller*, (1978) 87 Cal.App.3d 762.

<sup>32</sup> *Miller*, *supra*, at 768-69.

<sup>33</sup> *See*, 42 Ops.Cal.Atty.Gen. 25 (1963) (The mailing of information and recommendations regarding pending welfare legislation to voters at County expense was not permitted by statute); 66 Ops.Cal.Atty.Gen. 186 (1983) (County funds may be spent under Government Code Section 50023 only to “attend” the legislature and “present information”); 73 Ops.Atty.Gen. 250 (1990)(Public funds may be spent to draft an initiative and provide impartial information).

<sup>34</sup> *League of Women Voters v. Countywide Criminal Justice Coordination Committee*, (1988) 203 Cal.App.3d 529

<sup>35</sup> *Id.* *Accord*, *Choice-In-Education League v. Los Angeles Unified School District*, (1993) 17 Cal.App.4<sup>th</sup> 415, 429.

<sup>36</sup> *California Common Cause v. Duffy*, (1987) 200 Cal.App.3d 730, 746-747.

<sup>37</sup> *Schroeder v. City Council of Irvine*, 2002 Cal.App. LEXIS 2493, 2002 Cal. Daily Op. Service 2832, Case No. D038976 (Cal.App.4<sup>th</sup> Dist. March 6, 2002) published on March 28, 2002. As of this writing, there has been no indication whether the petitioner will seek review by the California Supreme Court.