

SB 594 Could Limit the Ability of Local Nonprofits to Get Involved in State and Local Ballot Campaigns

Senate Bill 594 (Hill) was recently amended with only weeks to go in the legislative session (gut-and-amend) and now contains broad language that would vastly limit the ability of any nonprofit organization that receives *any* public funding from a local government from participating in state and local ballot campaigns. SB 594 could significantly restrict the ability of local nonprofits of commerce and their employees and executives from participating in state and local ballot campaigns:

- **Nonprofits Getting Any Local Agency Funds Covered.** The bill applies if a nonprofit receives any assistance from a local agency—cash, in kind, local agency staff assistance, or even for revenue a nonprofit may receive from a local agency for services provided by the nonprofit to the agency (e.g., economic development, marketing, tourism promotion) under contract to the agency.
- **Definition of “Public Resources” Broadened.** Public resources, currently, cannot be used for campaign advocacy purposes. But the bill expands the definition of “public resources” to include compensation that is received for services or goods provided to a local agency. Therefore, revenues that a nonprofit may have previously considered to be non-public resources, such as compensation paid to the nonprofit through a contract with a local agency, could not be used for campaign advocacy purposes under the bill.
- **What Is Prohibited?** Any campaign activity funded with “public resources” as broadly defined. For example, a nonprofit CEO could not appear at campaign events in an advocacy capacity or use nonprofit resources to communicate for or against a measure or a candidate without creating internal accounting systems to segregate its private and public resources to ensure no “public resources” are used. Moreover, if a nonprofit leased office space from a local agency, the nonprofit arguably would NOT be able to engage in any campaign activity in that office even if those campaign activities were funded with purely private revenues.
- **Endorsements Allowed; But Further Activities Subject to Limits.** Although the nonprofit may continue to make endorsements under SB 594, it is unclear how far the nonprofit could go in promoting its endorsement. The bill would allow the nonprofit to post the endorsement on its website, communicate the endorsement to its members, and issue a press statement. But the bill would NOT allow the nonprofit’s executive director to participate in local campaign events while on the job if the executive director’s salary is being paid in part with public resources without creating internal accounting systems to ensure no “public resources” are used. It is unclear how other possible scenarios may be affected.

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- **Greater Limits on Those Receiving 20% or More Gross Revenues from Local Agencies.** Nonprofits that receive 20% or more of their gross revenues from local agencies will be subject to additional disclosure and auditing requirements for any campaign activity they engage in, even if a nonprofit were using only purely private funds (i.e., funds not received from a public agency at all).
 - These nonprofits would be required to set up a separate bank account for any money the nonprofit may wish to use for local campaign activity.
 - These nonprofits will be subject to quarterly and two-year campaign activity reporting requirements, which would require the nonprofit to disclose the source of the funds used for the campaign activity—even if the “source” of the funds is a non-governmental entity or individual, and even if the funds are received for purposes wholly unrelated to campaign activity (such as payment for goods or services provided by the nonprofit, or dues payments by private members, etc.).
 - c. If the nonprofit engages in reportable local campaign activity, the nonprofit is subject to audit by the Attorney General.
- **Penalties.** The bill imposes stiff civil penalties for violations, which would be imposed on the nonprofit, and potentially would also be imposed on the nonprofit’s officers, employees, and agents. These are on top of existing civil and criminal penalties in the law for the misuse of public funds in campaigns.