

Legislative Analysis



PUBLIC BODY COMMUNICATIONS ABOUT LOCAL BALLOT QUESTIONS

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House Bill 5219 as introduced
Sponsor: Rep. Lisa Posthumus Lyons
Committee: Elections
Complete to 1-20-16

Analysis available at
<http://www.legislature.mi.gov>

BACKGROUND:

Senate Bill 571 was recently enacted as Public Act 269 of 2015; the bill made numerous amendments to the Michigan Campaign Finance Act. Section 57 of Senate Bill 571 provides that, except for an elected official in the performance of duties under the Michigan Election Law, ***a public body or person acting for a public body may not use public funds or resources for certain communications about a local ballot question during the period 60 days before an election.*** It states that the communications cannot take the form of radio, television, mass mailing, or prerecorded telephone message, if those communications refer to a local ballot question and target the relevant electorate where the local ballot question appears on the ballot.

Governor Snyder issued a signing letter when approving the bill in which he said, in part:

[However]recognizing that many local governmental entities and schools have raised concerns regarding confusion with the new language in Section 57, I am calling on the Legislature to enact new legislation to address those concerns, and clarify that the new language does not impact the expression of personal views by a public official, the use of resources or facilities in the ordinary course of business, and that it is intended only to prohibit the use of targeted, advertisement style mass communications that are reasonably interpreted as an attempt to influence the electorate using taxpayer dollars. Local governmental entities and schools should still be allowed to distribute basic information about an election including the proposed or final ballot language and the date of the election. This is keeping within the spirit of the existing restrictions in the Act.

SUMMARY:

House Bill 5219 would amend the Michigan Campaign Finance Act by clarifying that the act does not prohibit all communication about ballot questions by public bodies. Specifically, the bill provides that any limit on communication does not cover certain allowable activity already included in the law, as described below, and also that the term "communication" does not include:

- The language of a local ballot question,
- The date of an election, or
- A discussion of a local ballot question during a meeting of a public body, including a meeting that is broadcast using a public access medium, provided that both proponents

and opponents of the local ballot question have an equal opportunity to discuss the local ballot question.

Other allowable activity cited in the bill that is already protected by the Campaign Finance Act includes:

- The production or dissemination of debates, interviews, commentary, meetings of a public body, or information by a broadcasting station, newspaper, magazine, or other periodical or publication in the regular course of broadcasting or publication.
- The use of a public facility owned or leased by, or on behalf of, a public body if any candidate or committee has an equal opportunity to use the facility.
- The use of a public facility owned or leased by, or on behalf of, a public body if that facility is primarily used as a family dwelling and is not used to conduct a fund-raising event.
- An elected or appointed public official or an employee of a public body who, when not acting for a public body but is on personal time, is expressing personal views, expending personal funds, or providing personal volunteer services.

MCL 169. 257

FISCAL IMPACT:

The bill would have an indeterminate impact on state and local government. The Department of State could see increased complaints under the changes made in the bill, but a calculation of that cost, if any, cannot be determined at this time.

The bill could impact future revenues of local governments by impacting the educational efforts local public bodies and officials can and cannot take around future ballot questions. However, there is no way to calculate a fiscal impact for local governments at this time.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.