



## Legislation Text

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**File #:** 20-0024, **Version:** 1

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**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Quinn Barrow, City Attorney

Liza Tamura, City Clerk

Alexandria Latragna, Management Analyst

**SUBJECT:**

Consider Introducing an Ordinance to Prohibit the Use of City Resources for Campaign Activity, Restrict Political Activity in and on City Facilities, Add a CPI Adjustment to the Donation Limit, and Make Campaign Finance Provisions and Definitions Consistent with Changes in State Law (City Attorney Barrow and City Clerk Tamura).

**INTRODUCE ORDINANCE NO. 20-0006**

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**RECOMMENDATION:**

Staff recommends that the City Council introduce the attached ordinance to prohibit the use of City resources for campaign activities, restrict political activity in City facilities, add a cost of living adjustment process to the contribution cap, and to conform campaign finance provisions and definitions to state law.

**FISCAL IMPLICATIONS:**

There are no fiscal implications associated with the recommended action.

**BACKGROUND:**

During the Fiscal Year 2019-2020 Work Plan discussion, City Council directed staff to develop an election policy to address concerns regarding the use of public resources, City positions or titles, and City facilities for campaign-related activity.

State law and regulations regulate campaign and political activity and the use of public resources. The proposed ordinance is designed to supplement those laws in a manner consistent with those laws to:

- Assure that individuals and interest groups in our society have a fair and equal opportunity to participate in the governmental process
- Maintain an equal playing level, so that persons do not use their status as City officials or former City officials in an effort to take advantage of such status
- Help restore public trust in governmental and electoral institutions and eliminate corruption

and the appearance of corruption in City elections

- Encourage a broader participation in the political process by maintaining limits on the amount any person may contribute or otherwise cause to be available to candidates for election to City Council or City Treasurer.

## **DISCUSSION:**

### Campaign Activity

State law currently prohibits any elected local officer, appointee, employee, or consultant to use or permit others to use “public resources for a campaign activity, or personal or other purposes which are not authorized by law.” *Cal. Government Code Title 2, Division 1, § 8314(a)*.

A “personal purpose” is defined as “those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor,” and excludes incidental and minimal use of public resources. The “use” of public resources means it must be substantial enough to “result in a gain or advantage to the user or a loss” to the City “for which monetary value may be estimated.” This state provision only applies to individuals within the City’s employ. Thus, staff proposes extending this to any person, including former employees and candidates.

The state’s provision also does not address a scenario where an individual may attempt to use his or her position or title for a private advantage or *disadvantage*. It is conceivable that public resources, including the City seal, or positions may be used to create unwarranted private harm. Therefore, staff recommends extending this restriction to the use of any City resources for any campaign activity whether or not it results in an advantage or disadvantage.

### Political Activity

The proposed section in the attached ordinance restricts political activity of City officials and mirrors the prohibitions that apply to Federal employees under the Hatch Act. Specifically, it prohibits City officials from engaging in “political activity” in the following scenarios:

1. While on duty for the City;
2. In any manner that implies the City official is speaking on behalf of the City or communicating a City position-including while wearing a uniform or official City insignia, or using a City title or position;
3. In a City facility, or while using City equipment, vehicles, supplies, or resources.

The purpose of this provision is to safeguard City employees from political coercion in the workplace and restore the public’s trust in government services and institutions.

### Campaign Contribution Limits

The last time the contribution limit section was amended was in 1996. Effectively, the limit has decreased each year due to inflation and spending power. Due to the State’s disclosure laws, it is easier to track donations that are given directly to a candidate in an election, than it is to track the true source of independent expenditures. For transparency purposes, it is recommended that donations from individuals given directly to a specific candidate’s committee be encouraged, rather than limited. Staff recommends tying the contribution limit of \$250, to the consumer price index for the Los Angeles-Long Beach metropolitan statistical area, so that the contribution limit is revised every two years, and more reflective of the spending power that a candidate may have with such contributed funds.

Consistency with State Law

In 1996, the ordinance included provisions and definitions that were, at the time, consistent with state law. Over the last 24 years, state law has evolved due to legislative amendments and case law. In light of such changes, staff recommends that the ordinance incorporate by reference the California Political Reform Act, as it has been amended, and will be amended.

**ENVIRONMENTAL REVIEW:**

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a “Project” as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

**LEGAL REVIEW:**

The City Attorney has approved the draft ordinance as to legal form.

**ATTACHMENT:**

1. Ordinance No. 20-0006