

SA2005RF0024

January 6, 2005

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street
Sacramento, CA 95814

RECEIVED
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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary
Initiative Statutory Amendment

Dear Mr. Lockyer:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative statutory amendment. Enclosed is a check for \$200. My residence address is attached.

Thank you for your assistance.

Sincerely,

LEWIS K. VHLER

Enclosure: Proposed Initiative

PUBLIC EMPLOYEE VOLUNTARY POLITICAL CONTRIBUTIONS ACT
OF 2005

Section 1. Title. This Act shall be known as the "Public Employee Voluntary Political Contributions Act."

Section 2. Findings and Declarations. The people of the State of California find and declare as follows:

(a) Public employees are generally required to join a labor organization or pay fees to the labor organization in lieu of membership.

(b) Public employee labor organizations operate through dues or fees deducted from their members' or agency shop payors' salaries which are paid from public funds.

(c) Often these dues or fees are used in part to achieve the political objectives of the labor leaders in supporting or opposing state and local candidates and ballot measures, positions with which the employee may disagree.

(d) It is fundamentally unfair to force public employees to give money to political activities or candidates they do not support.

(e) Because public money is involved, taxpayers share a responsibility to ensure that public employees retain the right to approve the use of their dues or fees which may be used for political objectives by their labor organization.

(f) To ensure that public employees retain control over their dues or fees that may be used for political purposes, it is fair and just to require that the employee consent in advance of such use.

Section 3. Purpose and Intent. In enacting this measure, it is the intent of the people of the State of California to guarantee the right of public employees to decide whether and how their dues and fees may be used for political campaign purposes.

Section 4. Chapter 5.9 (commencing with §85990 is added to Title 9 of the Government Code to read:

§85590 (a) Definitions.

As used in this act, the following terms have the following meanings:

1. "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments and any other items submitted to the voters for their approval or rejection.

2. "Filing entity" means a candidate, officeholder, political committee, political party and each other entity required to report contributions under Government Code §§ 84200 et seq., or payments under Government Code §§ 85310 and 85312.

3. "Fund" means the separate segregated fund established by a public employee labor organization for political purposes according to the procedures and requirements of this act.

4. "Public employee labor organization" means a labor organization organized for the purpose of set forth in subdivision (a) of Section 12926 of the Government Code on January 1, 2005.

5. "Political activities" means electoral activities, independent expenditures, issue advocacy expenditures or expenditures made to any candidate, political party, political action committee, voter registration campaign or any other political or legislative cause, including ballot propositions.

6. "Union dues" means dues, fees or other moneys required as a condition of membership in a public employee labor organization.

7. "Agency shop" has the same meaning as defined in subdivision (a) of Section 3502.5 of the Government Code on April 1, 1997.

8. "Agency shop fees" means any fees paid by members of a public employee labor organization, or individuals who are not members, in accordance with an agency shop as defined in subdivision (a) of Section 3502.5 of the Government Code on April 1, 1997.

9. "Public entities" shall include, but not be limited to, the State of California, cities, counties (including charter cities and counties), cities and counties, school districts, special districts, local and regional agencies and joint powers agencies.

10. "Public employee" includes, but is not limited to, any person employed by a public entity.

§85590 (b) Limits on Public Employee Labor Organization Contributions.

1. (A) A public employee labor organization may only make expenditures for political activities if such expenditures are made from a separate, segregated fund that meets the requirements of this act.

(B) A public employee labor organization fund meets the requirements of this act if:

(i) in soliciting contributions for the fund from a public employee or from a public employee's immediate family member, the solicitor discloses, in clear and unambiguous language both verbally and in writing on the face of the solicitation, that contributions are voluntary and that the fund is a political fund and will be expended for political activities;

(ii) union dues or agency shop fees are not used for political activities, transferred to the fund or intermingled in any way with fund moneys;

(iii) the cost of administering the fund is paid from fund contributions and not from union dues, agency shop fees, the public agency that employs the individual or any other funding source; and

(iv) is voluntary and shall be made by the public employee or the public employee's immediate family member; and may not come from or be remitted by the public employee labor organization or the public agency that employs the individual.

2. At the time the public employee labor organization is soliciting contributions for the fund from a public employee or a public employee immediate family member, the public employee labor organization shall:

(A) affirmatively inform the public employee or the public employee's immediate family member, both verbally and in writing, of the fund's political purpose; and

(B) affirmatively inform the public employee or the public employee's immediate family member, both verbally and in writing, of their right to refuse to contribute without fear of reprisal or loss of membership in the public employee labor organization; and

(C) obtain a document signed by the public employee or the public employee's immediate family member, and written in the handwriting of that public employee or public employee's immediate family member, acknowledging the fund's political purpose and their right to refuse to contribute without fear of reprisal or loss of membership in the public employee labor organization.

3. (A) Any public employee labor organization that maintains a separate, segregated fund for the purpose of making expenditures for political activities shall maintain records that include copies of each signed acknowledgement obtained under subdivision (b)(2)(C), the amounts and dates funds were actually contributed, and the amounts and dates funds were transferred to the fund. Records maintained under this subdivision shall not include the employee's home address or telephone number.

(B) Copies of all records maintained under subdivision (b)(3)(A) shall be sent to the California Fair Political Practices Commission on request but shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with section 6250) of Division 7, Title 1 of the Government Code.).

4. The public employee labor organization has the burden of proof by clear and convincing evidence to establish that the requirements of subdivisions (b)(1)(B) and (b)(2) of this section are met.

5. Notwithstanding the requirements of subdivision (b)(1)(B)(ii) of this section, a public employee labor organization may use or expend union dues or agency shop fees:

1. to communicate directly with its own members about political candidates, ballot propositions and other political issues;
2. for the benefit of charitable organizations organized under Title 26 United States Code section 501(c)(3), provided that the charitable organization certifies to the public employee labor organization in advance of any use or expenditure of funds for such organizations that the funds will not be utilized for purposes for which the public employee labor organization would have been required to comply with subdivisions 1 and 2 of this section.
3. for the benefit of public employee labor organization-provided health care insurance.

§85590 (c). Criminal Acts, Penalties.

1. (A) It is unlawful for a public employee labor organization to make expenditures for political activities by using contributions secured by physical force or threat of force, job discrimination or threat of job discrimination, membership discrimination threat of membership discrimination or economic reprisals or threat of economic reprisals.

(B) When a public employee labor organization is soliciting contributions for a fund from a public employee or a public employee's immediate family member, it is unlawful for such organization to fail to:

(i) affirmatively inform the public employee or the public employee's immediate family member, both verbally and in writing, of the fund's political purpose; and

(ii) affirmatively inform the public employee or the public employee's immediate family member, both verbally and in writing, of their right to refuse to contribute without fear of reprisal or loss of membership in the public employee labor organization; and

(iii) obtain a document signed by the public employee or the public employee's immediate family member, and written in the handwriting of that public employee or public employee's immediate family member, acknowledging the fund's political purpose and their right to refuse to contribute without fear of reprisal or loss of membership in the public employee labor organization.

(C) It is unlawful for a public employee labor organization to pay a public employee or a public employee's immediate family member for contributing to the fund by providing a bonus, expense account, rebate of union dues or by any other form of direct or indirect compensation.

(D) It is unlawful for any person or entity to use any records maintained pursuant to subdivision (b)(3)(A) for purposes other than those specified in this section.

2. (A) Any person or entity violating subdivision (c)(1)(A) is guilty of a felony, and shall in addition be fined an amount not to exceed the amounts set forth in subdivision (a) of section 91005 for funds contributed or expended in violation of the subsection.

(B) Any person or entity violating subdivision (c)(1)(B) is guilty of a misdemeanor, and shall in addition be fined not to exceed the amounts set forth in subdivision (a) of section 91005 for funds contributed or expended in violation of the subsection.

(C) Any person or entity violating subdivision (c)(1)(C) is guilty of a misdemeanor, and shall in addition be fined not to exceed the amounts set forth in subdivision (a) of section 91005 of funds contributed or expended in violation of the subsection.

(D) Any person or entity violating subdivision (c)(1)(D) is guilty of a misdemeanor, shall be fined an amount no more than \$5,000, but not less than \$1,000.

§85590 (d). Registration, Disclosure. Each fund established by a public employee organization under this act shall:

1. Register as a political committee as required by Government Code § 84101.

2. File the financial reports for political committees required by Government Code §§ 84200 et seq., 85310 or 85312.

§85590 (e). Prospective Application. The provisions of this act shall apply to all contracts entered into after the effective date of this act. The provisions of this act shall also apply to any renewal of an existing contract after the effective date of this act.

Section 5. Severability. If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected but shall remain in full force and effect, and to this end the provisions are severable.