"Walking the Line" - Public Agencies', Officials' and Employees' Roles in Local Elections

BB&K Free Webinar

Candidates and ballot measure elections can drastically change the course of any local agency, but how involved can — and should — a public agency, or its officials and employees, be? In this free webinar, Best Best & Krieger LLP attorneys Sigrid Asmundson and Jim Priest discuss what a local agency can and cannot do before the November election. Learn how to confidently walk the fine line between disseminating legal information and illegally advocating for or against a measure or candidate. The presentation will also cover:

- The role of public and elections officials, staff and the public
- The use of public property and resources for campaign activities and
- New rules applicable to the upcoming election

When

Wednesday, August 15
10 - 11 a.m. (PDT)

"Walking the Line' - Public Agencies', Officials' and Employees' Roles in Local Elections" [PDF]
To view a recording of the webinar, click here.

"Walking the Line" - Public Agencies', Officials' and Employees' Roles in Local Elections generated a variety of questions. Due to time constraints, we were not able to answer them during the webinar. Here, Jim and Sigrid provide responses:

1. Does the author of a council-initiated ballot measure argument also need to sign the rebuttal or can it be different members of the city council as directed by council?

The rebuttal argument must either be drafted by (i) the author or a majority of the authors of the primary argument; or (ii) another person authorized by the primary argument author, in writing, to prepare the rebuttal.
2. Can an incumbent use pictures the city has of him at city events for campaign purposes?

This depends on the pictures – are there uniforms in the pictures, are the pictures taken in locations accessible to the public, and were public funds or resources expended to take these pictures? Pictures are subject to the Public Records Act so any candidate may obtain a copy of the picture. However, under Government Code section 54964, that incumbent candidate could be liable for misusing public funds towards the advocacy of his or her candidacy.

3. Can you restrict members of the public from making statements supporting/challenging ballot measures or candidates during the "public comment" period of a city council meeting?

No. All public comments during a city council meeting must meet the current standards imposed by the city for public comment, regardless of the content of the speech. Thus, any person may make political statements during public comment but may be restricted to established time limits.

4. Are there any differences in requirements between paper mailers and electronic mailers (such as use of social media)?

Only paper mailers fall under the mass mailing restrictions; electronic mailers or social media mailers do not. However, public costs associated with the paper mailers and electronic mailers are still restricted by Government Code sections 8314 and 54964, as well as applicable case law.

5. We have candidates posting election signs on district property (attaching to fences). Is this considered "traditional public for a?" Must they comply with "post no signs" notices?

Election signs must comply with the district’s property-use requirements so long as those requirements are content neutral. For example, if the district has a “no signs” policy, restricts the number of total signs or restricts the size of signs, and these requirements apply to all signs (commercial and non-commercial), then the district may restrict elections signs in accordance with that regulation.

6. Can an agency pass a resolution in favor of an initiative, either their own or another agency’s?

Prior to placing a measure on the ballot, the agency board can adopt a resolution, at public expense, in favor of the measure. After the measure has been placed on the ballot, if a resolution is prepared it must be prepared with
minimal staff involvement so that public funds and resources are not used toward the advocacy of the initiative.

*Some of the questions were edited for clarity.

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