



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Germond, Commissioners Cardenas, Hatch, and Hayward

From: Loressa Hon, Acting Executive Director
Dave Bainbridge, General Counsel
Phillip Ung, Director of Legislation and External Affairs

Subject: Request for legislation to permit the Commission to enforce a prohibition on the use of public funds for campaign activities

Date: January 7, 2019

At the December 20, 2018 Commission meeting, Commissioner Hatch requested the Commission discuss and consider at its January 17, 2019 meeting sending a letter to the leadership of the California Legislature requesting legislation amending the Political Reform Act to authorize the Enforcement Division to investigate and prosecute cases involving the illegal use of public resources for campaign activities. This came about as the result of concern that State and local prosecutors, who are authorized under current law to bring civil and criminal actions against public officials for using public resources for campaign activities, were not adequately enforcing the law.

Multiple statutes prohibit public officials from using public resources for campaign activity.¹ Further, the State Supreme Court has ruled it is a violation of the State Constitution for public agencies and officials to spend public resources on campaign activities absent express statutory authority.²

Current law does not permit the Commission's Enforcement Division to investigate and bring legal action against public agencies and officials for spending public resources on campaigns. The Commission's jurisdiction is limited to requiring a public agency that qualifies as a committee under the Act to file campaign statements and reports and comply with advertising disclosure requirements.

Such legislation would likely give the Enforcement Division the authority to bring an administrative or civil action on behalf of the Commission against public agencies and public officials who authorize the expenditure of public funds for campaign activities.

¹ See Government Code sections 8314 and 54964, and Education Code section 7054

² See *Stanson v. Mott* (1976) 17 Cal. 3d. 206 and *Vargas v. City of Salinas* (2009) 46 Cal. 4th 1