

Municipal Elections

From Start to Finish

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How a Candidate Runs for Office

- Candidates go through the nomination process
- So many forms!
- Nomination papers
- Ballot designation worksheet
- Candidate statement
- Campaign finance filings
- Form 700 – Statement of Economic Interest

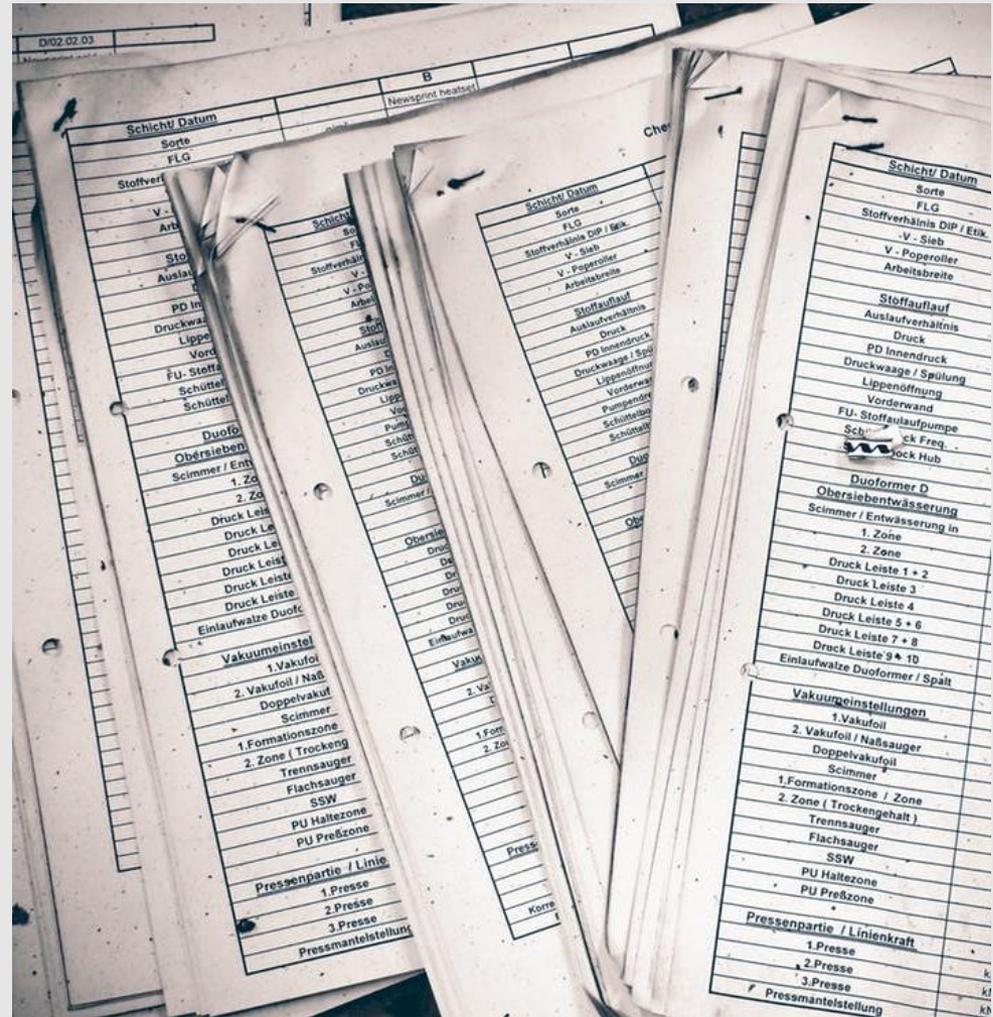
Nomination Process

- Candidates obtain signatures from voters
- Possibly filing fee, or signatures instead of fee



Nomination Process

- Signatures come from registered voters in the jurisdiction.
- One voter's signature only counts on one nomination paper for that seat.
- Encourage candidates to submit early.



Ballot Designation

- Must be principal profession, vocation or occupation of candidate
- Highly regulated
- Generally, candidate must provide proof that this is their real job



Candidate Statement

- Maximum 200 words
- About the candidate, not about the opposition
- Party not to be included
- Included in mailed voter information pamphlet
- Unique word count



Campaign Finance Filings

- FPPC is your friend
- Candidates create committees
- Those committees file reports with the City showing money they are raising, who it is coming from, and what they are spending it on



Campaign Finance Filings

- Reports are filed every six months, but more frequently closer to the election
- Publically available
- Press always interested
- Electronic filing makes everyone's life easier
 - Candidates, staff, press

Form 700s – Statements of Economic Interest

- Filed at time of returning nomination papers
- Covering year before returning the nomination papers



Ballot Order of Candidates

- Secretary of State pulls a random alphabet order for each election
- So A. Adam Adams doesn't always go first on the ballot



Ballot Measures

- Elections Code section 9000 - 9610
- Different statutes govern statewide, county, municipal and district measures
- Similar procedures
- Focus today is on municipal measures



City Sponsored Measures

- Election Code § 9222
- City Council may submit to the voters a proposition for the ***repeal, amendment, or enactment*** of any ***ordinance***.
- Can be placed on any regular or special election held not less than 88 days after the order of election.
- Majority voter approval required
- Tax measures also subject to Prop 218.

Citizen Sponsored Measures

Step 1: file a notice of intention to circulate a petition with the elections official.

- Full text of initiative (mandatory)
- Statement of reasons (optional) – 500 word max
- Signed by 1-3 proponents
- Filing fee (max. \$200), refunded if petition is sufficient
- Notice must substantially conform to Elections Code § 9202(a).
- Request ballot title and summary be prepared

Citizen Sponsored Measures

Step 2: Prepare Ballot Title & Summary

- Elections official must “immediately” transmit measure to City Attorney.
- 15 days to prepare a ballot title and summary
- True and impartial statement of purpose of measure
- 500 words or less

Citizen Sponsored Measures

Step 3: Publish or post notice of intention and ballot title and summary

- Must publish one in an adjudicated newspaper of general circulation for the city, if there is one.
- If not, see Elections Code § 9205 for other option.

Step 4: File affidavit of publication and/or posting with the elections official within 10 days of publication and/or posting.

Citizen Sponsored Measures

Step 5: Circulate the Petition

- Petition may be in sections
- Format is regulated – see Elections Code §§ 9203, 9020
- Must include notice of intention, ballot title and summary, full text of measure
- Declaration of person collecting signatures



Citizen Sponsored Measures

Step 6: Submit Petition for Verification

- No later than 180 days after receipt of ballot title and summary.
- Signed by 10% of the registered voters
- Elections official must immediately do a count of the signatures and determine if there is a prima facie showing of sufficiency.
- If prima facie sufficient, petition is accepted for filing and signatures are verified.
- 30 days to determine sufficiency.

City Action on Petition

- If petition is sufficient, elections official must certify sufficiency to Council at its next regular meeting.
- City Council must either:
 - Adopt ordinance
 - Submit ordinance to voters
- City Council may order a report be prepared before deciding whether to adopt or submit to voters.
 - Must be completed within 30 days

Call of Election

- Elections Code § 1405 – election for a citizen sponsored initiative shall be held at the next regular municipal election that is at least 88 days after order of election.
- Council may opt to call a special election
 - Must be before the next regular municipal election
 - Must be held between 88 and 103 days after the order of election

Impartial Analysis

- “The city attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure.”
- 500 words or less
- Must state whether City or Citizen sponsored
- Conclude with: “The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official’s office at (insert telephone number) and a copy will be mailed at no cost to you.”

Ballot Arguments

- Elections Code provides order of precedence if multiple arguments for or against are submitted
- 300 words maximum (250 for rebuttal)
- Maximum of 5 authors per argument
- No anonymous arguments
- Deadlines:
 - Primary arguments – 14 days after call of election
 - Rebuttals – 10 days later
 - Do not apply if consolidated with another election
- 10 day public examination period

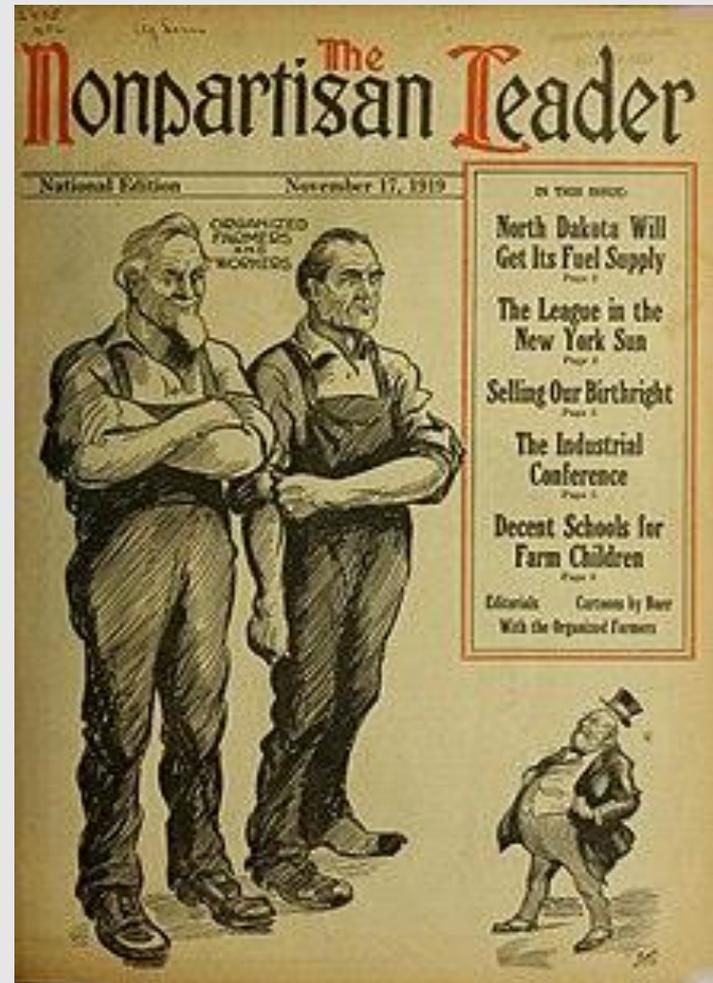
The Campaign Period



Public Agencies

“A fundamental precept of this nation's democratic electoral process is that the government may not ‘take sides’ in election contests or bestow an unfair advantage on one of several competing factions.”

Stanson v. Mott (1976)
17 Cal. 3d 206, 217



“Bully Pulpit”

A position that provides a strong platform from which to influence public opinion.

Public interest is served by using position to ***educate***, not ***advocate***.



Education vs. Advocacy

Education

- Objective and impartial
- Honest assessment of impacts

Advocacy

- Inflammatory language
- Urges a particular vote

**Key Factors:
“Style, Tenor and Timing”**



Examples

- **Education**

- Materials detailing the reduction in City services that would occur if a ballot measure reducing the City's Utility User Tax was approved.
(*Vargas v. City of Salinas* (2009) 46 Cal.4th 1)



- **Advocacy**

- “Educational packet” distributed by State Bar that included transcript of speech with inflammatory language, form letters, and sample press release.
(*Keller v. State Bar* (1989) 47 Cal.3d 1152)

Exceptions

- Legislative body may take a formal position in support of or opposition to a ballot measure.
- Public facilities can be used for campaign activities if the facility is made available on the same terms and conditions as any other private use of a public facility.



Public Officials & Employees

- Gov't Code §§ 3201 – 3209 (Political Activities of Public Employees)
- Applies to elected and appointed officials and employees of state and local agencies.

“Except as otherwise provided in this chapter, or as necessary to meet requirements of federal law as it pertains to a particular employee or employees, no restriction shall be placed on the political activities of any officer or employee of a state or local agency.”

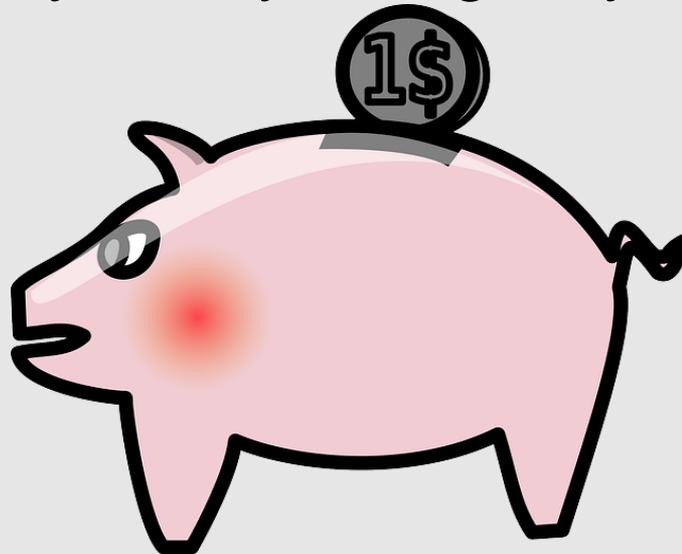
You Scratch My Back . . .

Officers and employees (and those seeking election or appointment) shall not use their position to persuade or induce any other officer or employee to take or refrain from taking any type of political action.



Soliciting Contributions

DO NOT solicit a political contribution from another officer or employee of your agency.



Exception: if the solicitation is made to a significant segment of the public which may include officers or employees of that local agency.

Campaigning

DO NOT engage in political activities while in uniform!



Local Agency Discretion

Agency *may* prohibit or restrict :

- Officers and employees engaging in political activity ***during working hours.***
- Political activities ***on the premises of the local agency.***

“It must appear that restrictions imposed by a governmental entity are not broader than are required to preserve the efficiency and integrity of its public service.”

(Fort v. Civil Service Com. (1964) 61 Cal.2d 331, 337-338)

Examples

- No political buttons or apparel worn during work hours.
- Do not provide a *personal* opinion on a ballot measure in response to questions from the public during work hours.
- Political activities may be held on City property on the same terms and conditions as other private uses of City property.
- City employees and officials may not engage in political activities on City property.



Thank You!

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