

# Use of District Resources in Bond Elections

By Steve Hartsell

## The General Rule

A school board may not use public funds, services, supplies or equipment for campaigns for or against any ballot measure "unless the power to do so is given to said board in clear and unmistakable language" (Mines v. Del Valle [1927], 201 Cal. 273, 287). This rule is codified in Education Code Section 7054. It applies to Proposition 47, which will appear on the November 2002 ballot. Violation of the law is punishable as a crime and may be prosecuted either as a misdemeanor or as a felony.

## Exceptions

State law does establish four limited exceptions to the general rule:

- Public funds, services, supplies, or equipment may be used to provide information to the public about the possible effects of any bond issue or other ballot measure so long as the information provided constitutes "a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure" (Education Code Section 7054(b)).
- District trustees and administrative officers may appear before a citizens' group that requests their presence "for purposes of discussing the reasons why the governing board of the district called an election to submit to the voters of the district a proposition for the issuance of bonds and for purposes of responding to inquiries from the citizens' group" (Education Code Section 7054.1).
- A forum under the control of the governing board of a school district

may be used, for example, by the proponents of a bond measure if the forum is made available to all sides on an equitable basis (Education Code Section 7058).

- The officers, agents and representatives of any recognized employee organization (i.e., union) may solicit or receive political funds or contributions from employee members during that employee's non-working time, including, for example, the employee's lunch period or other scheduled break (Education Code Section 7056(b)).

When amending the law in 1995 the Legislature has also made it clear that it did not intend to restrict the free speech rights of district governing boards, their members or their employees, unless public funds are involved. By recognizing that school boards have the right to urge the support or defeat of any ballot measure, the Legislature has implicitly acknowledged their right to consider what position to take on any particular ballot measure during a public board meeting, despite the obvious involvement of district resources at such meetings.

## School Districts and Proposition 47


It should be clear that school district trustees and employees are free to campaign in favor of Proposition 47 so long as they do not do so during working hours and do not otherwise use district funds, services, supplies or equipment. Some activities that can be lawfully undertaken by school districts themselves regarding Proposition 47 are the following:

- The district's governing board can, at one of its public meetings after receiving public and staff input on

the issue, adopt a resolution supporting Proposition 47.

- So long as no public funds are involved, the governing board may prepare and disseminate information or make public or private appearances or statements for the purpose of urging support of Proposition 47.
- District resources may be used to provide information to the public about how Proposition 47 would affect the district's educational facilities and programs, so long as that information constitutes a fair and impartial presentation of relevant facts to aid the voters in making an informed decision about Proposition 47.

## Warning!

Because of the criminal sanctions attached to violating Education Code Section 7954, districts should, of course, contact their legal counsel before actually undertaking any activities related to Proposition 47 (or any other ballot measures) that involve the use of public funds, services, supplies or equipment. 

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## Mark Your Calendar

**C.A.S.H. 24<sup>th</sup> Annual Conference**  
**February 24 – 27, 2003**  
**Sacramento Convention Center**

**C.A.S.H. 25<sup>th</sup> Annual Conference**  
**February 23 – 26, 2004**  
**Sacramento Convention Center**