

Business/Non-Instructional Operations

Spending Public Funds for Advocacy

1. Spending Public Funds to Inform Citizens Regarding Referenda

Section 9-369b(a), Connecticut General Statutes is the exclusive method by which a municipality may expend public funds for printing and distribution of information concerning a referendum question. It sets forth the following conditions for such expenditure:

- a. A vote of the municipality's legislative body is needed to authorize the preparation, printing and distribution of concise "explanatory text" or other printed material with respect to a referendum
- b. The preparation of the text must be made by the municipal clerk and approved by the municipal attorney;
- c. The explanatory text shall specify the intent and purpose of each referendum or question; and
- d. Such explanatory text shall not advocate either the approval or the disapproval of the referendum proposal or question.

Materials in addition to the explanatory text may now be prepared and printed with public funds if they (1) do not advocate either the approval or disapproval of the referendum; (2) are authorized by vote of the local legislative body; and (3) are approved by the municipal attorney. The notices may also include other neutral printed material approved for submission to electors on a municipal or regional school district referendum.

Pursuant to C.G.S. 9-369b(b), for any referendum called for by a regional school district, the Regional Board of Education shall authorize the preparation and printing of concise explanatory texts of proposals or questions approved for submission to the electors of a municipality at a referendum. The Secretary of the Regional School Board shall prepare such explanatory text which is subject to the approval of the school Board's counsel. The Regional Board's Secretary shall also undertake any other duty of a municipal clerk as described in this statute.

Regional district school boards are authorized (P.A. 15-173) to print and disseminate neutral printed material, in addition to explanatory texts, about regional school district referenda. Such material must be approved by the board's attorney. The material must be prepared by a person authorized by the regional school board or municipal legislative body, whichever applies.

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Spending Public Funds for Advocacy (continued)

2. Expenditure of Public Funds for Advocacy Prohibited

With two exceptions discussed below, no expenditure of state, municipal or regional school district funds can be made to influence any person to vote for approval or disapproval of any referendum question. The ban applies when a referendum is pending.

A referendum question is pending when the necessary legal conditions have been satisfied to require the publication of the warning (notice) of the referendum. For example, a referendum is pending when a sufficient number of signatures have been certified by the Town Clerk under C.G.S. 7-7 or when the selectmen, or other authorized government official, have determined that a referendum will be conducted.

3. Pro-Con Summaries

By ordinance, a municipality may provide for the preparation and printing of concise summaries of arguments in favor of and opposed to a referendum question for which an explanatory test is prepared under Section 9-369b(a). The ordinance must provide for a committee to prepare these summaries. Other conditions for this exception are specified in Section 9-369(c).

4. Press Releases and Constituent Responses Permitted

The other exception is that an official can express his/her views on pending referendum at a bona fide news conference, and may use public funds, facilities, and supplies to prepare a press release to be disseminated at the conference. Also, an official may use public funds, facilities and supplies to respond to a constituent request for information concerning the referendum, including the official's views. The exception is lost however, if the official responds to the citizen's request with the knowledge that the response will be disseminated to others in the community.

In addition, the maintenance of a third-party comment posted on social media or on an Internet website maintained by the state, a municipality or a regional school district permitting such third-party comments shall not constitute an expenditure of state or municipal funds.

5. Children in School as Couriers

Children in school may not be used as couriers of information that advocates a position on a referendum. A notice limited to the time, place and question to be voted upon may be sent home to parents via children in school.

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Spending Public Funds for Advocacy (continued)

6. Use of School Teachers, Administrators, Facilities, Supplies, and Equipment Prohibited

The prohibition on state and municipal funds also applies to the use of school facilities, supplies, and equipment and postal permits to advocate a position on a referendum. For example, parent teacher organizations and school administrators may not use school equipment to prepare or copy advocacy material even if the town, regional district or school system is reimbursed for such use. This prohibition also extends to the use of a school's public address system to advocate a result of a referendum.

7. Use of School Facilities by Outside Political Committees and Organizations for Meetings or Rallies

School facilities may not be used by political committees or for the purpose of advocating a position on a referendum unless such facilities are accessible to all such committees or groups on a nondiscriminatory basis. A charge can be made for the use of school facilities for this purpose and all groups or committees must be charged the same.

8. What Constitutes Advocacy?

A communication advocates a position on a referendum when in part, or taken as a whole, it urges the listener or reader to vote in a particular manner. The style, tenor, and timing of a communication are factors which are considered by the Commission when reviewing alleged improprieties of Section 9-369b.

9. Civil Penalties for Violations

The State Elections Enforcement Commission may impose a civil penalty against any official who violates Section 9-369b(a), in an amount not exceeding twice the amount of the improper expenditure or \$1,000, whichever is greater. The official is personally liable for the penalty and cannot be reimbursed or indemnified by the state, regional school district or municipality for payment of a civil penalty.

10. Political Committees to Promote Referenda

Under Chapter 150 of the General Statutes, public officials and citizens alike may join together to freely advocate their views on a referendum by registering a political committee with the clerk of the municipality in which the referendum is to be held. Upon its registration, the political committee is permitted to solicit, receive and expend private funds to promote the success or defeat to a referendum question. If less than \$1,000 is expected to be collected or spent, a group may file a certification of exemption in lieu of a political committee registration form.

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Spending Public Funds for Advocacy (continued)

11. Independent Personal Expenditures

Any citizen or public official may independently (acting alone) make expenditures of his or her own funds to promote the success of a referendum question without forming a political committee in conformance with Chapter 155, Connecticut General Statutes. However, once such individual spends more than \$1,000 to promote the success or defeat of a referendum question, he/she must file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a political committee under Section 9-608.

12. Use of Automated Calling Systems

The school district is not allowed to use its automated calling system, electronic mail, text, telephone or other electronic or automated means for the purpose of reminding or encouraging parents/guardians and students about the time, date and place concerning referenda and encouraging them to vote. This prohibition shall not apply to a regularly published newsletter or similar publication.

The Board of Education of a regional school district, through its chairperson, may request that their member municipalities use their community notification systems to notify enrolled residents of an upcoming regional school district referendum.

Legal Reference: Connecticut General Statutes
9-333j Statements to be filed by campaign treasurers. Treatment of surplus or deficit. Filing dates.
9-369 Procedure for holding referendum.
9-369a Submission of local questions at election.
9-369b9-369b. Explanatory text related to lead question. Expenditures of state and municipal funds to influence vote prohibited. Exception. Civil penalty. Local questions and proposals. Explanatory text. Use of community notification systems. Expenditures of state and municipal funds to influence vote prohibited. Preparation and printing of certain materials permitted. Civil penalty. Summaries of arguments for, against local questions (as amended by PA 00-92, PA 04-117, PA 13-247 and PA 15-173)

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NEW LONDON PUBLIC SCHOOLS
New London, Connecticut