

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 515
101ST GENERAL ASSEMBLY

0564H.02C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 115.646, RSMo, and to enact in lieu thereof one new section relating to ethics, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 115.646, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.646, to read as follows:

115.646. **1.** No contribution or expenditure of public funds shall be made directly by any officer, **board member, director, administrator,** employee, or agent of any political subdivision **or special district** to advocate, support, or oppose any ballot measure ~~[or]~~ , any candidate for public office, **or any issue before the general assembly.** **No officer, board member, director, administrator, employee, or agent of any political subdivision or special district shall directly use public resources or property paid for with public funds to advocate, support, or oppose any ballot measure, any candidate for public office, or any issue before the general assembly.** This section shall not be construed to prohibit any ~~[public official]~~ **officer, board member, director, administrator, employee, or agent** of a political subdivision **or special district** from making public appearances ~~[or from]~~ , issuing press releases ~~[concerning any such ballot measure]~~ , **or testifying before the general assembly as long as such officer, board member, director, administrator, employee, or agent does not do so in his or her official capacity while receiving compensation by the political subdivision or special district for time worked unless such actions are part of his or her job description.** **An officer, board member, director, administrator, employee, or agent making public appearances, issuing press releases, or testifying before the general assembly for any reason other than direct performance of his or her duties shall be required to take annual or vacation time, compensatory leave, or unpaid leave.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 **2. This section shall not be construed to prohibit a political subdivision or special**
20 **district from employing a legislative liaison to communicate with members of the general**
21 **assembly regarding policies or procedures, including ballot measures, of the political**
22 **subdivision or special district.**

23 **3. Any resident of this state who wishes to challenge any contribution or**
24 **expenditure of public funds or any use of public resources or property paid for with public**
25 **funds may bring an action in any circuit court of the political subdivision or special district**
26 **in which the alleged violation occurred. The political subdivision or special district and**
27 **the officer, board member, director, administrator, employee, or agent who allegedly**
28 **violated this section shall be named as party defendants. The petition shall set forth a**
29 **description of any use of public resources or property paid for with public funds at issue,**
30 **any contribution at issue, and any expenditure at issue and the facts that gave rise to a**
31 **violation and shall pray leave to produce such proof. The court shall consider the petition**
32 **and evidence, hear arguments, and in its decision determine whether a violation of this**
33 **section occurred.**

34 **4. If the court decides a violation of this section occurred, the court shall order**
35 **payment by the political subdivision or special district of all the plaintiff's costs and**
36 **attorney's fees. If the court determines that the action was not filed in good faith or is**
37 **frivolous, the court shall order payment by the plaintiff of the defendant's costs and**
38 **attorney's fees.**

39 **5. (1) If the court decides a contribution or expenditure of public funds was made**
40 **by an officer, board member, director, or administrator of the political subdivision or**
41 **special district in violation of this section, the political subdivision or special district shall**
42 **be subject to a civil penalty in an amount equal to ten times the amount of the contribution**
43 **or expenditure or one thousand dollars, whichever is greater.**

44 **(2) If the court decides public resources or property paid for with public funds**
45 **were used by an officer, board member, director, or administrator of the political**
46 **subdivision or special district in violation of this section, the political subdivision or special**
47 **district shall be subject to a civil penalty in the amount of one thousand dollars.**

48 **(3) If an officer, board member, director, or administrator of the political**
49 **subdivision or special district knew or should have known of a violation under subsection**
50 **6 of this section, the political subdivision or special district shall be subject to a civil penalty**
51 **in an amount described in subdivision (1) or (2) of this subsection, corresponding to the**
52 **type of violation that occurred.**

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54 **The civil penalties collected under this subsection shall be credited to the general revenue**
55 **fund.**

56 **6. If the court decides a contribution or expenditure of public funds was made or**
57 **public resources or property paid for with public funds were used by an employee or agent**
58 **of the political subdivision or special district who is not an officer, board member, director,**
59 **or administrator of the political subdivision or special district in violation of this section**
60 **and it was the first such violation by such employee or agent, the court shall not impose a**
61 **civil penalty. A second or subsequent violation of this section by such employee or agent**
62 **shall subject the political subdivision or special district to the penalties under subsection**
63 **5 of this section.**

64 **7. Any resident of this state who wishes to challenge any contribution or**
65 **expenditure of public funds or any use of public resources or property paid for with public**
66 **funds may, instead of filing the court action described in subsection 3 of this section, file**
67 **a complaint against an officer, board member, director, or administrator of the political**
68 **subdivision or special district with the Missouri ethics commission. In the event that both**
69 **a court filing and ethics complaint are filed, only the first filed will proceed and the other**
70 **shall be dismissed.**

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