

State's Political Contributions Solicitation Ban for Local Government Employees Is Unconstitutional

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California may not enforce a ban on local government officers and employees soliciting political contributions from their coworkers while state officers and employees are not similarly barred.

In *Progressive Democrats v. Bonta*, the Ninth Circuit Court of Appeals ruled that a state law preventing local government officers and employees from soliciting political contributions at work is unconstitutional. Since 1976, Government Code Section 3205 has prohibited local government officers and employees—but not state government personnel—from soliciting political contributions from colleagues. Two officers of a local government agency who wanted to solicit their co-workers for contributions in support of a fellow officer's political campaign, joined with a political organization to challenge Section 3205 on constitutional grounds. The State's asserted goals for imposing this ban were to combat workplace coercion and prevent workers from performing their public duties in a partisan manner.

The court concluded that prohibiting political fundraising by employees and officials at one level of government, but not others, violates the First Amendment. The State failed to justify the unequal treatment of local government officers and employees compared to state government personnel, the court held. The ban indiscriminately applied to all local agencies regardless of size while disregarding the potential for similar coercion in state agencies. Furthermore, the Attorney General did not provide any evidence to the court that intra-governmental solicitations have coerced state employees, who are allowed to solicit political contributions from their coworkers, to support political candidates or perform their duties in a partisan manner.

As a result of this decision, Section 3205 does not prohibit local government officers and employees from soliciting political contributions from their coworkers. However, other limitations on political fundraising, such as laws, policies, and personnel rules that prohibit employees from soliciting campaign

contributions during work hours, campaigning in public buildings, and campaigning while in uniform, would still apply. In addition, state laws that prohibit employees and officials from using public resources for any campaign purpose are still in effect. Employers would be well-advised to be familiar with those laws and policies.

If you have any questions regarding this case, please contact **Chelsea Straus** or your RWG attorney.