



STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

January 6, 2016

Michigan House of Representatives
Michigan Senate
State Capitol Building
Lansing, Michigan 48913

Ladies and Gentlemen:

Today I signed Senate Bill 571 into law. Because of the substantial public debate surrounding the bill's passage, I am taking the opportunity to explain why I signed this bill, and encourage the Legislature to pass follow-up legislation to clarify certain provisions of the new law.

SB 571 includes many important reforms updating the Michigan Campaign Finance Act (the "Act"). It also amended section 57 of the Act to provide clarity to the existing prohibition on the use of public funds or resources to advocate for the passage or defeat of ballot questions. Under existing law, a public body, or a person acting on behalf of a public body, is prohibited from using public resources to make campaign expenditures. The existing prohibition contains several exceptions, including allowances for the expression of views by officials with policymaking responsibilities, the production or dissemination of factual information concerning relevant issues, and the production or dissemination of debates, interviews, and commentary if done in the ordinary course of business.

Since SB 571 was passed, there have been many misperceptions about what it means and how it impacts the prohibitions in existing law. By its own terms, SB 571 impacts only the ability of a local public body to produce or disseminate information concerning issues relevant to the function of the public body 60 days before an election, if that communication is a "radio, television, mass mailing, or prerecorded telephone message" that is "targeted to the relevant electorate" voting on the local ballot question. The new language in subsection (3) only applies when local governmental entities use taxpayer resources to distribute mass communications concerning ballot questions. As I interpret this language, it is intended to prohibit communications that are plain attempts to influence voters without using words like "vote for" or "support." With this clarified prohibition, there remain many other mechanisms, including private entities, associations, and political action committees to encourage support or opposition to a ballot proposal that do not rely on public resources.

Importantly, SB 571's new prohibitions were not made applicable to any of the other existing exceptions in current law, in particular, those that are grounded in First Amendment political speech protections. This includes: policymaking officials still can express their own views; a public body can use its facilities to host debates or town halls on ballot questions; and local officials can express their own personal views on their own personal time. These are important exceptions to retain to protect free political speech and also ensure that the electorate has the opportunity to be adequately informed about upcoming ballot proposals. Those exceptions are not in any way impacted by the new language in SB 571.

However, recognizing that many local governmental entities and schools have raised concerns regarding confusion with the new language in section 57, I am calling on the Legislature to enact new legislation to address those concerns, and clarify that the new language does not impact the expression of personal views by a public official, the use of resources or facilities in the ordinary course of business, and that it is intended only to prohibit the use of targeted, advertisement style mass communications that are reasonably interpreted as an attempt to influence the electorate using taxpayer dollars. Local governmental entities and schools should still be allowed to distribute basic information about an election including the proposed or final ballot language and the date of the election. This is keeping within the spirit of the existing restrictions in the Act.

The Senate Majority Leader and the Speaker of the House have agreed to work together on follow-up legislation clarifying the provision in section 57 of the Act in time for the March 2016 election.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Snyder", written in a cursive style.

Rick Snyder
Governor