



Ballot issues: How involved can corporations get?

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As the legalization of marijuana gains notoriety as a controversial and hot ballot topic, individuals and organizations are making their opinions known. Since the announcement of Issues 2 and 3 in early August, dozens of Ohio businesses and associations have released official statements, drawing their lines in the political sand. Because these issues may affect employers, many corporations — especially those with hundreds or thousands of employees — may be wondering how involved they can get in the persuasion of their own employees and the general public.

While Ohio law strictly prevents corporations from engaging directly in political activities, all corporations are permitted to use an unlimited amount of its resources to oppose or support ballot issues in Ohio. Some of the ways in which corporations can lawfully participate in ballot issue campaigning includes funding, sending communications to employees, and encouraging employees to volunteer time to ballot issue campaign and election efforts. However, each of these permitted activities has important guidelines.

Corporate contributions: R.C. 3599.03(C) states that: "A corporation, a nonprofit corporation, or a labor organization may use its funds or property for or in aid of or opposition to a proposed or certified ballot issue. Such use of funds or property shall be reported on a form prescribed by the secretary of state...." While there are no contribution limits, corporate contributions made to a ballot issue committee must be reported. This reporting requirement only applies to corporations; partnerships, LLCs and individuals are excluded. Reporting forms are available on the Ohio Secretary of State's website and are relatively simple to complete and easy to file.

Communications with employees: Corporations may provide materials about ballot issues to employees and may ask employees to contribute to a ballot issue committee. They may also provide mailing lists or other information to a ballot issue committee, allowing them to contact employees directly. Employers should note that materials must be strictly non-partisan and employees cannot be coerced, enticed or threatened to make a donation or to take a specific stance. Likewise, the costs associated with material distribution, as well as providing mailing lists, must be

properly reported as an in-kind contribution to a committee.

Volunteer activity: Paid employee time or corporate resources that benefit a ballot issue committee can constitute in-kind contributions and are permissible but must be reported. While a corporation may grant vacation or other leave to employees wishing to volunteer for a committee, subject to existing policies, it should be careful to apply this policy equally to all employees regardless of which side of the issue the employee supports.

Additionally, R.C. 3599.06 prohibits an employer from interfering with an employee's efforts to vote on Election Day. Employees should be permitted a "reasonable amount of time" to vote, with consideration given to employees who work long shifts or some distance from their polling location. Employers are not required to give time off or pay employees for time spent voting, but should be sure to apply company policy equally to all employees.

As November 3 approaches, corporations must carefully consider their involvement in the ballot issues that impact them, their employees and their bottom lines. While Ohio gives freedom to those corporations wishing to participate in ballot issue campaigns, compliance with legal guidelines is essential to taking an effective and meaningful stance.

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