

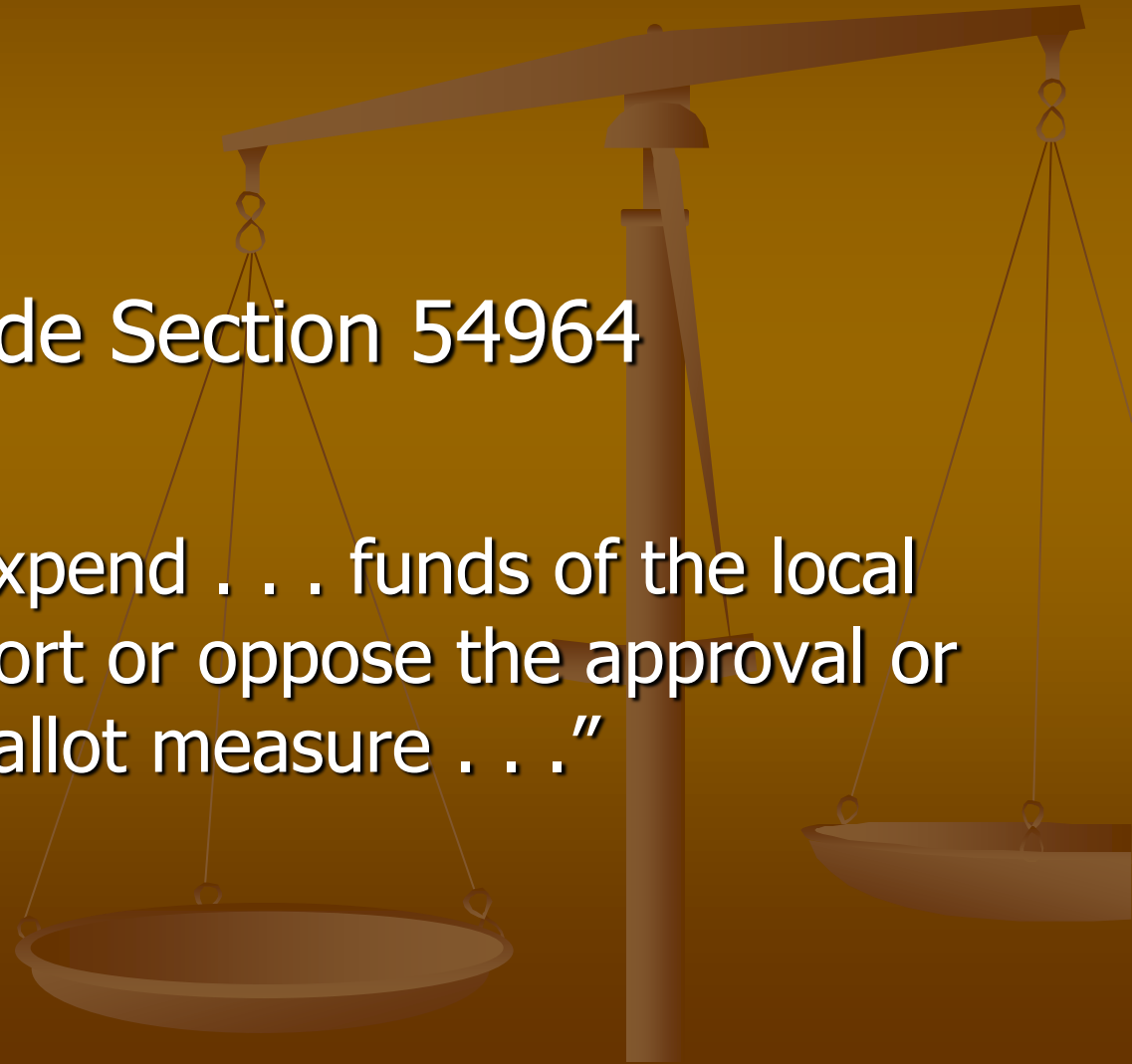


Restricted and Allowable Political Activities and Public Expenditures

City Council Meeting
June 18, 2013
Staff Report

Restriction on Use of Public Funds for Ballot Measures

- Government Code Section 54964
 - “. . . may not expend . . . funds of the local agency to support or oppose the approval or rejection of a ballot measure”

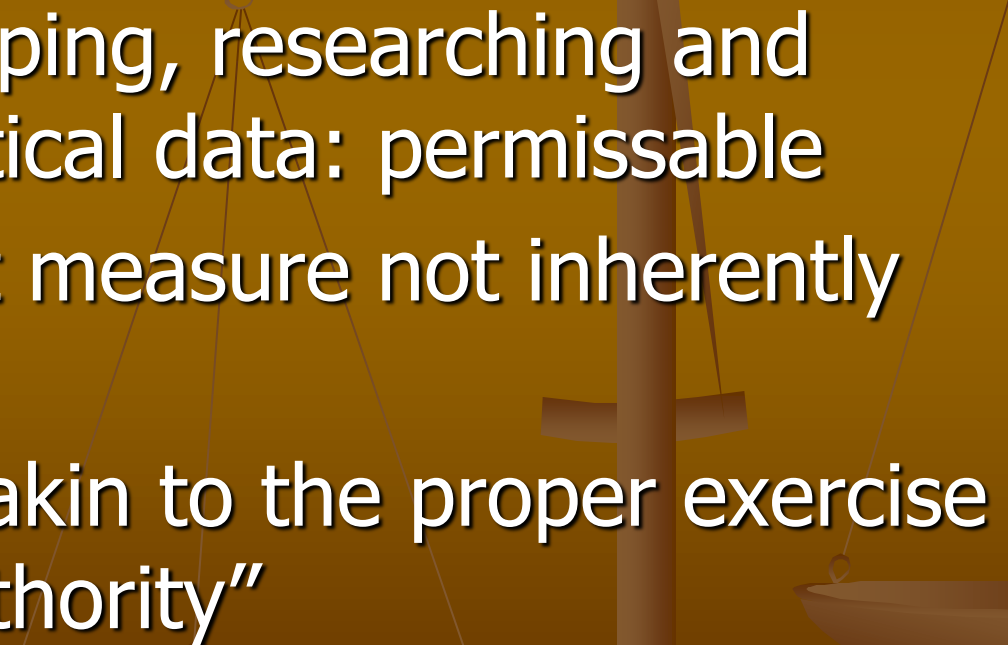


Government Code § 54964

- General prohibition, however, does not prohibit expenditure of funds “to provide information to the public about the possible effects of a ballot measure on the activities, operations, or policies of the local agency, if both of the following conditions are met:
 - (1) The informational activities are not otherwise prohibited by the Constitution or laws of this state.
 - (2) The information provided constitutes an accurate, fair and impartial presentation of relevant facts to aid the voters in reaching an informed judgment regarding the ballot measure.

Pre-Ballot Activity

Development and Drafting

- Drafting, developing, researching and gathering statistical data: permissible
 - Drafting a ballot measure not inherently partisan
 - Drafting “more akin to the proper exercise of legislative authority”
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Post-Ballot Activity



Government Code Section 54964(c)

Two requirements required:

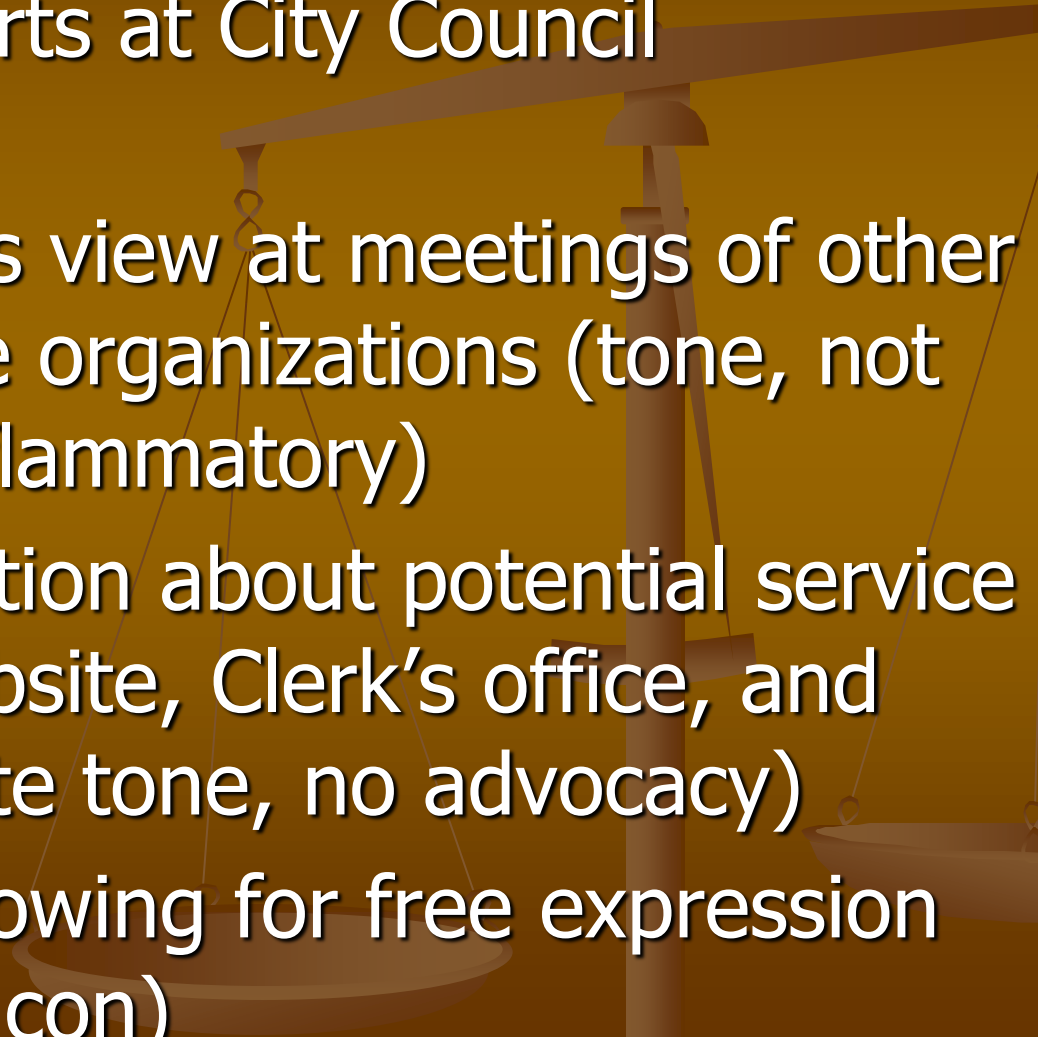
1. Information not otherwise prohibited
2. Information an accurate, fair and impartial presentation of relevant facts to aid the voters in reaching an informed judgment regarding the ballot measure.

Accurate, Fair & Impartial Facts

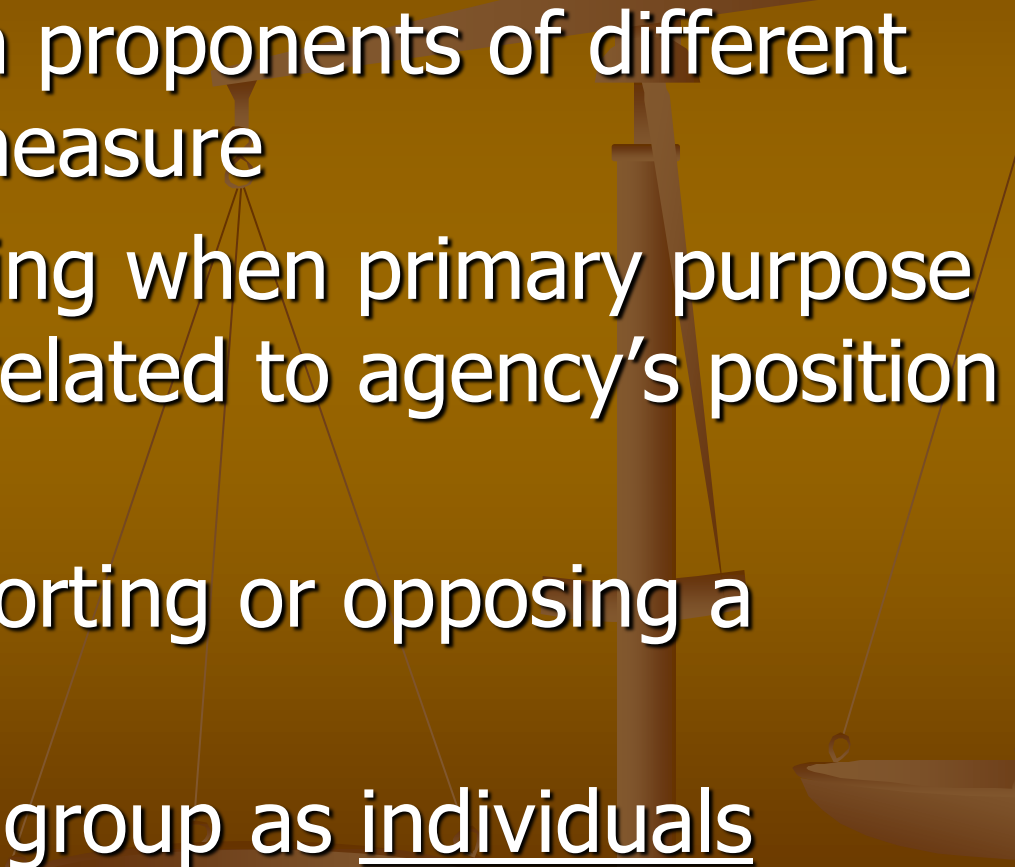


- Style, tenor, and timing are critical factors in assessing the propriety of the expenditure
- Examples of allowable expenditures/ use of public resources:
 - City Manager/staff report on how an initiative is enacted
 - Written reports describing potential service cuts, reductions in facilities, reduction in programs (moderate tone, unemotional)

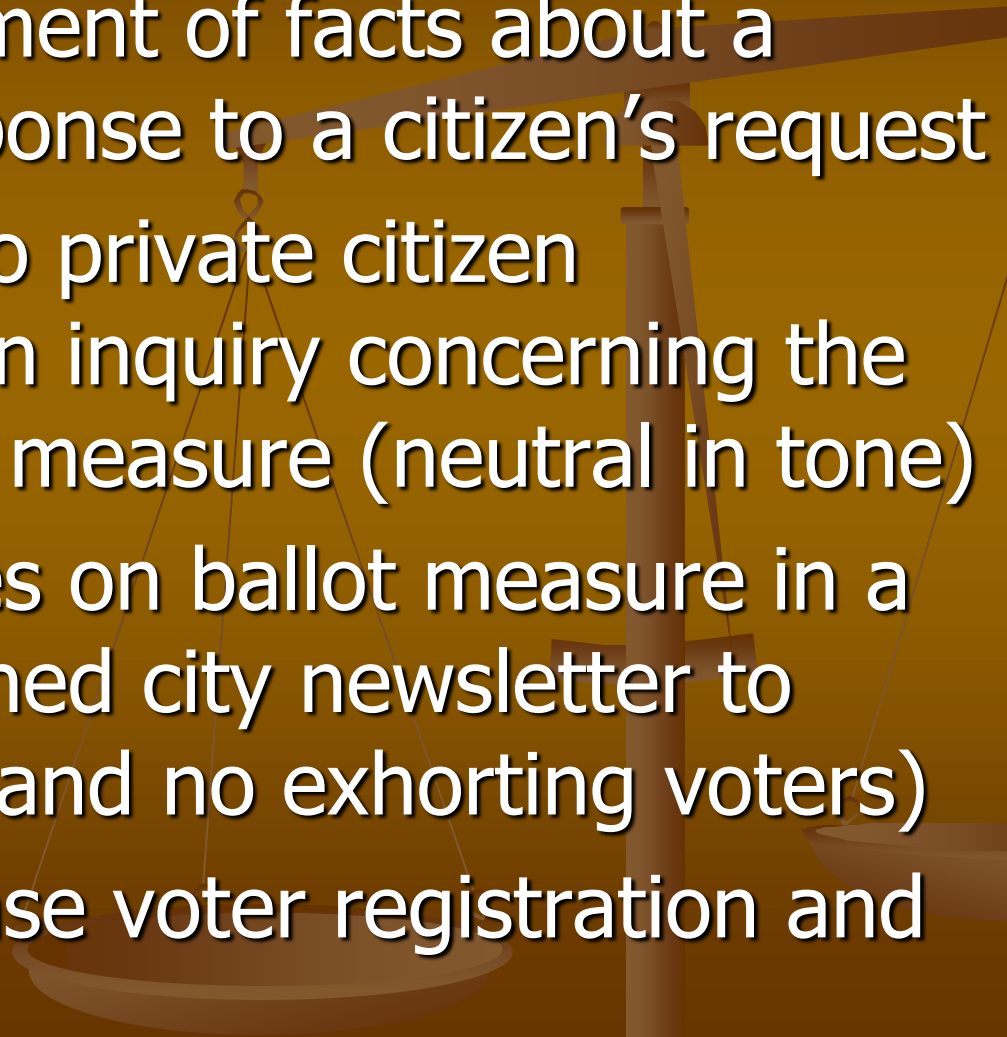
Allowable Expenditures/ Use of Public Resources

- Presenting reports at City Council meetings
 - Presenting City's view at meetings of other public or private organizations (tone, not emotional or inflammatory)
 - Posting information about potential service cuts on City website, Clerk's office, and library (moderate tone, no advocacy)
 - Public forum allowing for free expression of views (pro & con)
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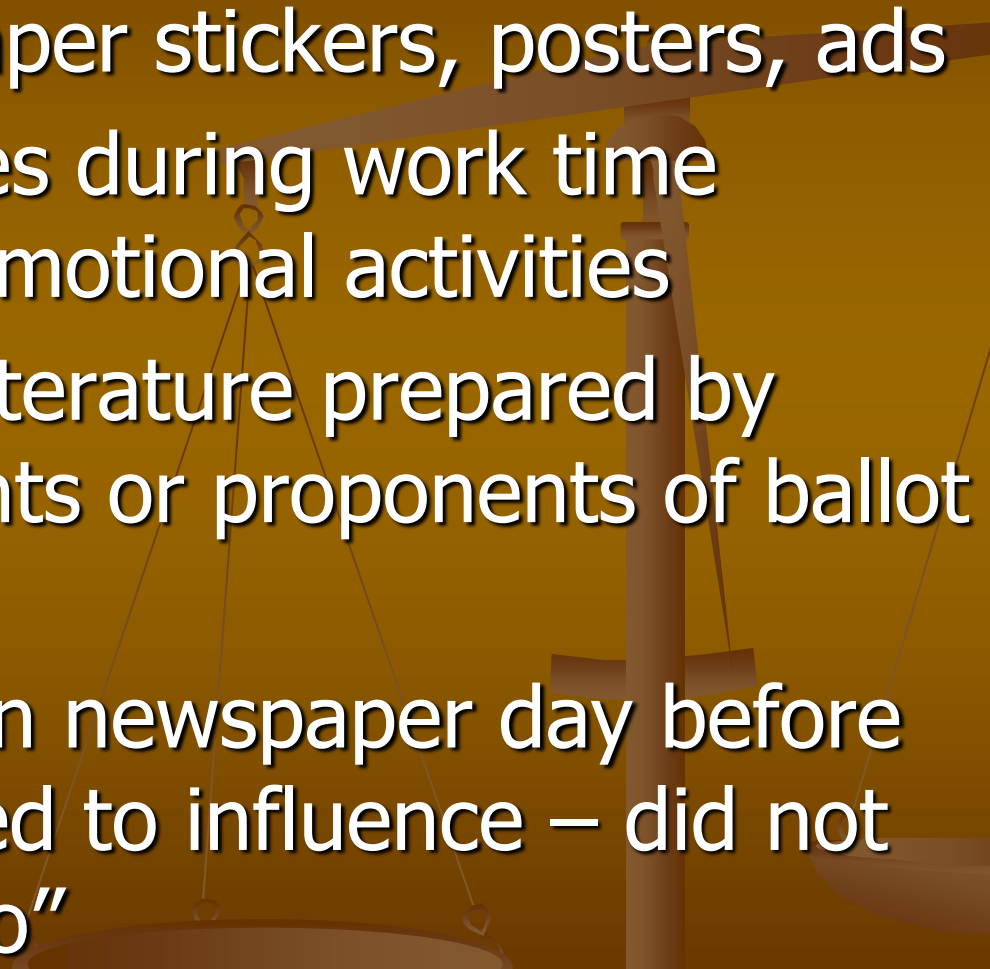
Allowable Expenditures/ Use of Public Resources

- Debate between proponents of different sides of ballot measure
 - Televising meeting when primary purpose of televising unrelated to agency's position on measure
 - Resolution supporting or opposing a measure
 - Joining citizen's group as individuals
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Allowable Expenditures/ Use of Public Resources

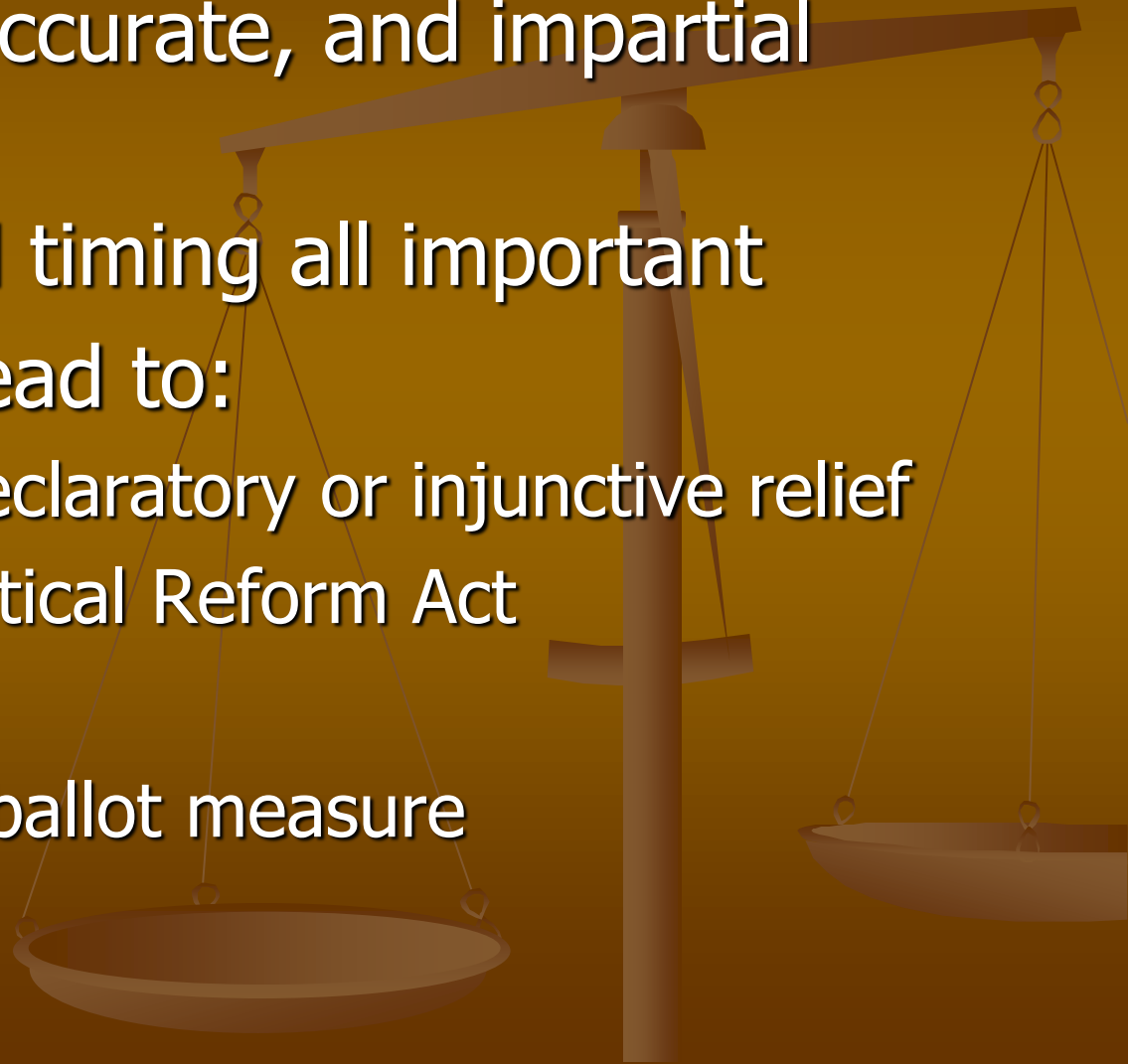
- Objective statement of facts about a measure in response to a citizen's request
 - Sending letter to private citizen responding to an inquiry concerning the proposed ballot measure (neutral in tone)
 - Including articles on ballot measure in a regularly published city newsletter to residents (tone and no exhorting voters)
 - Efforts to increase voter registration and participation
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Improper Expenditures/Use of Resources

- Purchasing bumper stickers, posters, ads
 - Public employees during work time engaging in promotional activities
 - Disseminating literature prepared by private opponents or proponents of ballot measure
 - Advertisement in newspaper day before election designed to influence – did not say “vote yes/no”
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Conclusion

- Providing fair, accurate, and impartial facts allowable
- Style, tenor and timing all important
- Violations can lead to:
 - Civil suits for declaratory or injunctive relief
 - Violation of Political Reform Act
 - Due Process
 - Invalidation of ballot measure



Questions and Discussion

