

FIRST REGULAR SESSION

# HOUSE BILL NO. 515

## 101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER.

0564H.011

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Section A. Section 115.646, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 115.646, to read as follows: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

2. This section shall not be construed to prohibit a political subdivision or special district from employing a legislative liaison to communicate with members of the general

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.

17 assembly regarding policies or procedures, including ballot measures, of the political  
18 subdivision or special district.

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

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

35       5. (1) If the court decides a contribution or expenditure of public funds was made  
36 by an officer, board member, director, or administrator of the political subdivision or  
37 special district in violation of this section, the political subdivision or special district shall  
38 be subject to a civil penalty in an amount equal to ten times the amount of the contribution  
39 or expenditure or one thousand dollars, whichever is greater.

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

44       (3) If an officer, board member, director, or administrator of the political  
45 subdivision or special district knew or should have known of a violation under subsection  
46 6 of this section, the political subdivision or special district shall be subject to a civil penalty  
47 in an amount described in subdivision (1) or (2) of this subsection, corresponding to the  
48 type of violation that occurred.

49       6. If the court decides a contribution or expenditure of public funds was made or  
50 public resources or property paid for with public funds were used by an employee or agent  
51 of the political subdivision or special district who is not an officer, board member, director,  
52 or administrator of the political subdivision or special district in violation of this section

53 and it was the first such violation by such employee or agent, the court shall not impose a  
54 civil penalty. A second or subsequent violation of this section by such employee or agent  
55 shall subject the political subdivision or special district to the penalties under subsection  
56 5 of this section.

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

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