February 27, 2023

TO: **Members of the California State Legislature**

FROM: **Coalition of Business and Local Elected Officials Challenging Constitutionality of SB 1439**

SUBJECT: **Legal challenge to SB 1439 Based on Violation of Constitutional Right to Free Speech**

On Wednesday, February 22 our coalition of business associations and local elected officials filed a lawsuit challenging the constitutionality of SB 1439, a measure that was signed into law in the last legislative session. While this bill passed with no opposition, SB 1439 violates the constitutional right to free speech by restricting the making and receiving of campaign contributions to local elected officials (but notably not state legislators or statewide officials), effectively changing the threshold of campaign contributions from $5,000 to no more than $250 for some parties but not for others[1].

Under SB 1439, receiving a $251 campaign contribution would disqualify a local elected official from voting on any issue relating to whomever they received the contribution from - be it an individual or company. This would even apply to newly hired individuals that did not previously work for, or have any affiliation with, the company at the time of their individual contribution.

Making and receiving campaign contributions is an exercise of a constitutional right of free speech. SB 1439 violates freedom of speech rights by rendering campaign contributions as unprotected speech.

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[1] “License, permit, or other entitlement for use” means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

In addition, SB 1439 significantly changes a California voter-approved initiative, the Political Reform Act, without the approval of California's voters - something that the Legislature does not have legitimate authority to do, according to our state's Constitution.

SB 1439 is also hypocritical. The author states that the law's purpose is to end interest group "pay for play" in local politics, yet SB 1439 carves out a special exception for labor interests.

Finally, SB 1439 is unworkable from a practical standpoint:

- The recusal applies to the entire period that an application is pending and 12 months after the decision is made. In California, because of massive bureaucracies and red tape, business applications are pending for years and in some cases more than 10 years.

- The bill creates a prohibition on campaign contributions based on the requirement to aggregate contributions from many parties supporting or opposing an application. For example, if 5 people each give $100 to a local elected official, and they all support a matter before the city council this *cumulative* contribution exceeds the $250 limit, and the elected official must recuse themselves.

- It is impossibly difficult for any individual, business, or business employee to comply with SB 1439.

- And equally, it is impossible for local elected officials to know the positions and financial interest of every supporter and opponent of every issue coming before a city council putting, them in harm's way on hundreds of votes without their knowledge or even ability to know.

We have been supportive of many campaign law reforms over the years and strongly believe campaign finance laws should bring transparency and accountability for all elected officials and equally for *all* who participate in the political process. We look forward to continuing to work on good government policies with the Legislature and local elected officials and strongly condemn any efforts to engage in any activities that violate California's campaign finance laws.

If you have any questions or would like a copy of the lawsuit, please contact Hilary McLean at hilary@alzamedia.com.