STORAGE NAME: h0171.er
DATE: March 21, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
ANALYSIS

BILL #: HB 171

RELATING TO: Campaign Financing

SPONSOR(S): Representative Turnbull & Others

COMPANION BILL(S): HB 565(c); CS/SB 314(c)(second engrossed); SB 968(c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) ELECTION REFORM
(2) GOVERNMENTAL OPERATIONS
(3) LAW ENFORCEMENT & CRIME PREVENTION
(4) JUDICIARY
(5)

I. SUMMARY:

HB 171 is an act relating to campaign financing. Specifically, this bill makes the following changes to Chapter 106, Florida Statutes:

- Revises the definition of "political advertisement" to include advertisements which mention or show a clearly identifiable candidate for election or reelection and are distributed at any point during the period following the last day of qualifying for the particular candidacy through the immediately ensuing general election. Provides an exception for certain business advertisements;

- Eliminates provisions that authorize the unrestricted expenditure of funds for the purpose of jointly endorsing three or more candidates;

- Provides a specified annual aggregate contribution limit to contributions from any one person, political committee, or committee of continuous existence to a political party, and to contributions from a political party to a candidate [$5,000 contribution limit to political parties, including in-kind contributions; $5,000 contribution limit from a political party to a candidate, including in-kind contributions]; and

- Eliminates the provision outlining in-kind contributions by a political party to a candidate that are considered "non-allocable".

This bill appears to have a minimal fiscal impact .

This bill has an effective date of January 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Political Advertisements

For purposes of the Florida Election Code, "political advertisement" is defined as "a paid expression in any communications media prescribed in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which shall support or oppose any candidate, elected public official, or issue. . .". [s. 106.011(17), F.S., (1997)]. The definition of "political advertisement" does not include a statement by an organization, in existence at the time during which a candidate qualifies or an issue is placed on the ballot, in support of or in opposition to a candidate or issue which is made in that organization's newsletter and the newsletter is only distributed to its members. Nor does it include editorial endorsements by newspapers, radio or television stations, or other recognized news mediums. [s. 106.011(17)(a)(b), F.S. (1997)].

With very few exceptions, "political advertisements" must carry a "paid for by" disclaimer indicating the person or group sponsoring the advertisement. [See generally, ss. 106.071 and 106.143, F.S. (1997);Doe v. Mortham, 708 So.2d 929 (Fla. 1998)]. Absent any filing requirements for groups engaging in political advertising, the name placed on the disclaimer alone may not adequately identify the persons responsible for the advertisement.

In addition to the disclaimer requirement, political committees and committees of continuous existence (CCE's) making expenditures for political advertising must register and *file* periodic campaign finance reports detailing their contribution and expenditure activities. [ss. 106.03, 106.04 and 106.07, F.S. (1997)]. However, the statutory definitions of "political committee" and "committee of continuous existence" do not encompass groups who make expenditures for political advertising which support or oppose an *elected public official* and does not involve a candidate or issue. [ss. 106.011(1) and 106.04(1), F.S. (1997)]. Therefore, although such groups have to identify their name on the advertisement's disclaimer, they do not have to file any documentation with the Division of Elections detailing the names and addresses of the principal officers of the group, the source of contributions made to the group, or expenditures made. Where groups use generic names (i.e. the Florida Committee for Better Government or the Coalition for Citizens Rights) the disclaimer information alone may not be sufficient to identify the affiliations or motivations of the sponsors or principal officers.

"Issue ads", ads which discuss non-referendum issues of interest to the electorate, which include references to or likenesses of candidates or elected public officials are not regulated under Florida law. Such an ad does not have to include the phrase "paid political advertisement", or similar expression. The ad does not have to identify the sponsoring individual or group. Nor is such an ad considered a contribution or expenditure under the Florida Election Code, thus there is no limit to the amount which can be spent in coordination with, or independent of, any candidate.

"3-Packs"

Florida law expressly exempts a political committee or political party advertisement jointly endorsing three or more candidates from the contribution limits. [s. 106.021(3), F.S. (1997)]. The law provides that any expenditure for these so-called "3-packs" is considered neither an expenditure nor a contribution for campaign finance purposes. In 1997, the Legislature reduced the minimum number of candidates which an advertisement needed to jointly endorse in order to qualify for the exemption from six (6) to three (3). [See, Ch. 97-13, s. 9, at 22, Laws of Florida].

Contribution Limits

In most election contests, including statewide elections, a person or entity other than a political party may contribute no more than $500 per candidate per election. [s. 106.08(1), F.S. (1997)]. Certain regulated interests have even lower contribution limits in connection with candidates for the office of Governor, Commissioner of Agriculture, Treasurer, and Comptroller. [ss. 106.082, 420.512(5)(a), 627.0623, 655.019, F.S. (1997)].

Candidates are currently prohibited from accepting contributions of more than $50,000 in the aggregate from a political party. [s. 106.08(2)(a), F.S. (1997)]. Expenditures for polling services, research services, campaign staff, professional consulting services, and telephone calls are not counted toward the $50,000 aggregate limit. [s. 106.08(2)(b), F.S. (1997)]. All other expenditures and in-kind contributions are counted toward the $50,000 limit. These expenditures must be reported by both the candidate and the party.

Currently, Florida law places no limit on contributions by persons or groups *to* the executive committee of state or county political parties. However, Florida law does prohibit "earmarked" contributions to political parties. "Earmarked" contributions are those contributions which are specifically designated for use by a particular candidate. [s. 106.08(6), F.S. (1997)]. Despite this prohibition against earmarked funds, public interest groups claim that corporations, special interest groups, and wealthy individual donors are able to funnel large sums of money in support of candidates through unrestricted contributions to the candidates' political parties, thereby effectively circumventing the $500 general contribution limit.

Federal law limits contributions to the executive committee of a national party "in connection with" federal elections, known as "hard money." However, there is no limit to the amount of "soft money" which a person or organization, including a corporation or labor union, can contribute to a national political party for so-called "get-out-the-vote" or "party-building" activities.

Proponents of this bill argue that Florida is one of only 13 states that currently does not restrict contributions to political parties. It would appear that this assertion is based on a compilation of states that do not restrict contributions to political parties *by any individual or group*. Although this assertion may be technically correct, a review of campaign finance laws nationwide indicate that at least 30 states do allow either an individual, political action committee, or other group (or a combination thereof) to contribute an **unlimited** amount to state and local political parties. [Information compiled by: Eric Lorenzini, State Issues Coordinator, Common Cause - January 1998].

B. EFFECT OF PROPOSED CHANGES:

Political Advertising

HB 171 modifies the definition of "political advertisement" to expand on the terms "support" and "oppose". Under this bill, a political advertisement is deemed to support or oppose a candidate or elected public official if two conditions are met:

- The advertisement mentions or shows a clearly-identifiable candidate for election or reelection; *and*,
- The advertisement is distributed at any point during the period following the last day of qualifying for that candidacy through the ensuing general election ("the election cycle").

The bill mandates that a political advertisement shall be deemed to support or oppose a candidate or elected public official regardless of whether express words of advocacy are mentioned in the advertisement (i.e. "vote for," "re-elect," "vote against," "defeat," or any similar words or statements). There are two exemptions. HB 171 excludes from the definition any paid expression in a communications medium which mentions or shows a clearly-identifiable candidate for election or reelection and which:

- Advertises a business rather than the candidate, is paid out of funds of that business, and is similar to other advertisements for that business which have mentioned or shown the candidate and have been distributed regularly over a period of at least 1 year before the qualifying period for that candidacy; *or*,

- Is distributed or broadcast only to areas other than the geographical area of the electorate for that candidacy.

Under the provisions of this bill, "issue ads" will be subject to regulation if the advertisement mentions or shows a clearly identifiable candidate for election or reelection, regardless of whether the advertisement contains express words of advocacy. Sponsors will have to identify the advertisement as "paid political advertisements" and, in most cases, include a sponsorship disclaimer identifying who they are. [s. 106.143(1), F.S. (1997); See, Doe v. Mortham, 708 So.2d 929 (Fla. 1998) (sponsorship identification disclaimer requirement unconstitutional as applied to individuals acting independently and using only their own modest resources).

Any political advertisement which meets the conditions of the definition as set forth under this bill, would fall within the scope of the terms "contribution" and/or "expenditure" for campaign finance reporting and contribution limit purposes. If the modification has the effect of bringing "issue ads" within the scope of the terms "contribution" and/or "expenditure", the effects would be significant. Issue ads by a political party which are coordinated with a candidate would be allocable to the party contribution limit ($100,000 for statewide candidates; $50,000 for all other candidates). Political committees coordinating an issue ad with a candidate would be limited to spending a maximum of $500 per election. Uncoordinated expenditures by political parties and political committees for issue ads would need to be reported on campaign finance treasurers' reports.

The ability of a state to regulate issue advocacy ads raises significant constitutional free speech issues (See, ***Comments***, below).

"3-Packs"

HB 171 eliminates the current exemption for "3-packs". Therefore, multiple endorsement advertisements will not be exempt from campaign finance requirements and, as such, would count as a contribution and/or expenditure.

Contribution Limits

This bill limits contributions to any state or county political party executive committee, or any subordinate committee, to an aggregate amount of $5,000 per person, per calendar year. Further, it significantly reduces the amount of money a candidate may accept from a national, state and county executive committees of a political party, including any subordinate committee, in the aggregate to $5,000 per calendar year. In-kind contributions are included within the $5,000 contribution cap. Likewise, a national, state, and county executive committee of a political party, including any subordinate committee, may not make contributions to a candidate which would exceed in the aggregate in any calendar year $5,000. Again, this includes in-kind contributions.

HB 171 eliminates the nonallocable, in-kind contributions listed in s. 106.08(2)(b), F.S.:

- Polling services
- Research services
- Costs for campaign staff
- Professional consulting services
- Telephone calls

The fair market value of these items would be counted as allocable toward the $5,000 contribution limit to a candidate.

Under the bill, any person who knowingly and willfully makes no more than one contribution in violation of the $5,000 contribution limit to a political party, commits a first degree misdemeanor. In addition, any corporation, partnership, or other business entity or any political party, political committee, or CCE hat is convicted of knowingly or willfully violating this provision shall be fined not less than $1,000 and not more than $10,000. If the violator is a business entity, it could lose its ability to do business in this state. Two or more violations would constitute a third degree felony, with a possible fine ranging from $10,000 to $50,000.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The Division of Elections and the Florida Elections Commission will be responsible for enforcing the changes to the campaign finance laws implemented under this bill.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

See above.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

   a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

      No.

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      Not applicable.

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      No.

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      Yes. Individuals and groups would no longer be able to give unlimited contributions to a political party. Political parties would only be able to give $5,000 in the aggregate in any calendar year to a candidate.

      To the extent that issue ads are regulated under the provisions of this bill, sponsors of such ads will have to adhere to disclosure requirements and other provisions of the Florida Election Code that they are currently not subject to.

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

      Not applicable.

      (2) Who makes the decisions?

      Not applicable.

      (3) Are private alternatives permitted?

      Not applicable.

      (4) Are families required to participate in a program?

      Not applicable.

      (5) Are families penalized for not participating in a program?

      Not applicable.

   b. Does the bill directly affect the legal rights and obligations between family members?

      No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

Amends ss. 106.08, 106.011, 106.021, 106.087 and 106.29, F.S.; reenacts s. 106.19(1)(a), F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends the definition of "political advertisement". A political advertisement is deemed to support or oppose a candidate or elected public official if it mentions or shows a clearly identifiable candidate for election or reelection and is distributed during the "election cycle", regardless of whether the advertisement contains express words of advocacy. Provides two exceptions for business advertisements.

Section 2. Removes the provision which currently exempts certain advertisements that endorse three or more candidates, commonly referred to as "3-Packs", from the contribution limits to candidates.

Section 3. Eliminates reference to "3-Packs" to conform.

Section 4. Limits to $5,000 per calendar year in the aggregate the amount a person, political committee, or committee of continuous existence may contribute to a political party. Reduces to $5,000 per calendar year in the aggregate the amount a candidate may accept from a political party. Reduces to $5,000 per calendar year in the aggregate the amount a political party may contribute to a candidate. Removes prohibition which limited the amount a candidate could accept 28 days prior to the general election. Eliminates nonallocable, in kind contributions: polling services, research services, costs for campaign staff, professional consulting services, and telephone calls. Provides a penalty reference.

Section 5. Corrects a reference to conform.

Section 6. Corrects a reference to conform. Eliminates requirement that state executive committees report all contributions required to be reported by the national executive committee under the Florida Election Code.

Section 7. Reenacts s. 106.19, F.S. for reference purposes.

Section 8. Provides an effective date of January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Minimal. The Division of Elections has indicated that any changes can be handled with current staff.

2. Recurring Effects:

See above.

3. Long Run Effects Other Than Normal Growth:

Not applicable.

4. Total Revenues and Expenditures:

Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Not applicable.

2. Recurring Effects:

Not applicable.

3. Long Run Effects Other Than Normal Growth:

Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are exempt from the mandates provision of Art. VII, s. 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

Political Advertisements and Issue Advocacy

When Congress passed the Federal Election Campaign Act of 1974 (the "Act"), it sought to regulate federal campaigns by placing limitations and disclosure requirements on campaign contributions and expenditures. Challenges to the constitutionality of various provisions of the Act placed it before the U.S. Supreme Court in Buckley v. Valeo, 96 S.Ct. 612 (1976). In reviewing the Act, the Supreme Court held unconstitutional a number of expenditure limits but upheld limitations on contributions as passing constitutional muster. In their analysis, the Court used the long established practice of applying a "strict scrutiny" standard to test the infringement of First Amendment rights against governmental interests. This standard dictates that any encroachment on constitutionally protected freedoms must be *narrowly tailored* to advance a demonstrated *compelling state interest*. [Williams v. Rhodes, 393 U.S., at 31 and NAACP v. Button, 371 U.S. 415, 438]. The Buckley Court and progeny have asserted that the only compelling interest to justify infringement on First Amendment rights is the prevention of corruption or the appearance of corruption.

In saving various provisions of the Act from an overbreadth problem, the Court interpreted the term "expenditure" to encompass "only funds used for communications that *expressly advocate the election or defeat of a clearly identified candidate*." Buckley, 96 S.Ct. at 663 (emphasis added). As previously stated, express advocacy was limited to communications containing express words of advocacy of election or defeat such as "vote for," "elect," "support," "vote against," and other identical synonyms. [Id. at 646 n. 52]. By adopting this bright line limitation, the Buckley Court effectively segregated political advocacy into two categories: "express" and "issue" advocacy. Advocacy using the "magic words" expressed in Buckley and later affirmed in Federal Election Com'n v. Massachusetts Citizens for Life, Inc., 107 S.Ct. 616 (1986), could be permissibly regulated. Conversely, advocacy falling outside these parameters could not. [See, West Virginians for Life, Inc. v. Smith, 960 F.Supp. 1036, 1039 (S.D.W.Va. 1996) (it is clear from Buckley and its progeny that the Supreme Court has made a definite distinction between express advocacy, which generally can be regulated, and issue advocacy, which cannot); Planned Parenthood Affiliates of Michigan, Inc. v. Miller, 21 F.Supp. 2d 740, 743 (E.D. Mich. 1998) (government can regulate express advocacy but issue advocacy cannot be prohibited or regulated, citing Buckley and MCFL); Maine Right to Life Committee, Inc. v. Federal Elections Commission, 914 F.Supp. 8 (D. Maine 1996) , *affirmed.*, 98 F.3d 1 (1st Cir. 1996), *cert. denied*, 118 S.Ct. 52 (1997) (Buckley adopted a bright-line test that expenditures must in express terms advocate the election or defeat of a candidate in order to be subject to limitation)].

Although most courts have directly followed this strict definition, a few courts, most notably the Ninth Circuit in Federal Election Com'n v. Furgatch, 807 F.2d 857 (9th Cir. 1987) *cert. denied*, 108 S.Ct. 151, have attempted to broaden this strict interpretation. The Furgatch Court held that "speech need not include any of the words listed in Buckley to be express advocacy ... but when read as a whole, and with limited reference to external events, be susceptible of *no other reasonable interpretation* but as an exhortation to vote for or against a specific candidate. [Id. at 864 (emphasis added)]. This approach however, has been directly challenged by the Fourth Circuit in Federal Election Com'n v. Christian Action Network, Inc., 110 F.3d 1049 (C.A.4 (Va.) 1997).

It is unclear whether any law which burdens issue ads that do not include express words of advocacy could pass constitutional muster under the First Amendment free speech and overbreadth doctrines.

Contribution Limits and Political Parties

There is an ongoing debate among legal scholars and practitioners concerning the constitutionality of limiting contributions to political parties. While no court has ruled definitively on the issue, such a

limitation would more likely than not be challenged on First Amendment free speech and association grounds.

The landmark case on the constitutionality of campaign finance laws is Buckley v. Valeo, 424 U.S. 1 (1976). In Buckley, the United States Supreme Court upheld a $1,000 limit on contributions to federal candidates by an individual. The Court also upheld a $25,000 annual limit on contributions by an individual in federal elections. The Court's analysis equated limiting the flow of money in the context of a political campaign as tantamount to limiting speech itself. Therefore, the Court reasoned, any limits on campaign contributions must pass the strict scrutiny test - namely, that the contribution limit must be "narrowly tailored" to serve a "compelling" state interest. The Buckley Court held that the *only* "compelling" state interest which would justify a contribution limit is the state's interest in preventing corruption or the appearance of corruption. [Buckley, 424 U.S. at 23-29].

In Federal Elections Comm'n v. National Conservative Political Action Committee, 105 S.Ct. 1459 (1985), the Court expanded on the definition of *corruption*:

> Corruption is a subversion of the political process. Elected officials are influenced to act contrary to their obligations of office by the prospect of financial gain to themselves or infusions of money into their campaigns. The hallmark of corruption is the financial *quid pro quo*: dollars for political favors.

[NCPAC, 105 S.Ct. at 1468]. However, the Court has not fully developed the "boundaries of the notion of the *appearance* of corruption." California Prolife Council Political Action Committee v. Scully, 989 F.Supp. 1282 (1998 WL 7173 at p. 8)(E.D. Cal. January 6, 1998) (emphasis added). As one federal court put it:

> Whatever else is true, the appearance of corruption must be more than illusory or conjectural; instead, there must be real substance to the fear of corruption; mere suspicion, that is, 'a tendency to demonstrate distrust ... is not sufficient,' no matter how widely the suspicion is shared.

[Id.] The critical elements to be proved are the "corruption of candidates or the *public perception* of the corruption of candidates." [NCPAC, 105 S.Ct. at 1470].

The United States Supreme Court has upheld contribution limits with respect to political action committees. In California Medical Ass'n v. Federal Election Comm'n, 101 S.Ct. 2712 (1981), the United States Supreme Court upheld a $5,000 per year limit on the amount an individual or unincorporated association could contribute to a political action committee under the Federal Election Campaign Act. The Court held that the restriction furthered the government's interest in preventing actual or apparent corruption, by preventing individuals and unincorporated associations from circumventing the limitations on contributions upheld as constitutional in Buckley ($1,000 limit on contributions from individuals and unincorporated associations *directly* to candidates). [Id. at 2722-23].

It could be argued that California Medical can be read for the proposition that limits on contributions to political parties can be constitutional, if certain conditions are met. However, at least one federal court has recognized distinctions between political action committees and political parties that may prove significant if litigated further. In Federal Election Commission v. Colorado Republican Federal Campaign Committee, ___ F.Supp.2d ___, 1999 WL 86840 (D.Colo. Feb. 18, 1999)(Colorado II), the United States District Court, D. Colorado, was called upon to address the only claim to have survived Colorado Republican Campaign Committee v. FEC, 116 S.Ct. 2309 (1996)(following Colorado I, political parties may engage in unlimited independent expenditures on behalf of congressional candidates); whether coordinated party expenditures could constitutionally be limited by the FECA.

For purposes of the FECA, coordinated expenditures are considered contributions. Notwithstanding government-selected labels or characterizations, the court recognized that the appropriate question was whether limits on coordinated party expenditures minimally restrict parties in engaging in protected First Amendment freedoms and serve a compelling governmental interest. [Colorado II at 1999 WL 86840, *11].

The court went on to recognize the role that political parties play in American politics. The court noted that the central activities in which political parties engage are a "paradigm of the right to freedom of association as guaranteed by the First Amendment". [Id.]. The court agreed with the Colorado Republican Party that political parties differ from political action committees in that special interest groups

and their PAC's usually have one specific goal or concern, whereas political parties represent an "amalgam or coalition of interests and goals; moreover the purpose of parties is to gain control of government, rather than to pursue single goals, as PAC's do". [Id. at *12]. The court went on to say, "[p]olitical parties function, in large part, to elect persons who represent the shared political beliefs of their members. Thus, First Amendment rights - - the freedom of speech and the freedom of association - - are critical to attaining that goal". [Id.].

In addition to contribution limits to political parties, HB 171 significantly reduces the amount a political party may give to a candidate *including in-kind contributions*. Florida currently requires any expenditure which is coordinated with a candidate to be considered a contribution to that candidate and subject to contribution limits. The United States Supreme Court has ruled as unconstitutional provisions that limit the right of individuals and political committees from making independent expenditures. [See, Buckley at 14-23; Federal Elections Comm'n v. National Conservative Political Action Committee, 105 S.Ct. 1459 (1985); and Colorado Republican Campaign Committee v. FEC, 116 S.Ct. 2309 (1996)]. As the court held in Colorado II, limits on coordinated expenditures between political parties and their candidates are unconstitutional. Based on these rulings, it appears that expenditures made on behalf of a candidate, whether coordinated or not, may not be restricted. The court in Colorado II (although not controlling in Florida) recognized that "[p]arty spending 'in cooperation, consultation, or concert with' a candidate ... is indistinguishable in substance from expenditures by the candidate..." [Id. at *17].

Therefore, it appears that while limitations on contributions to political parties may arguably be upheld on constitutional grounds, limitations on expenditures a political party may make on behalf of its candidate, either coordinated or independent of that candidate, may fail.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by: Dawn Roberts

Staff Director: Dawn Roberts