

By Senators Constantine and Smith

22-44A-03

1 A bill to be entitled
2 An act relating to elections; amending s.
3 106.011, F.S.; redefining the term
4 "communications media"; amending s. 106.1437,
5 F.S.; modifying reporting requirements for
6 miscellaneous advertisements intended to
7 influence public policy; prescribing penalties;
8 providing for severability; providing an
9 effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsection (13) of section 106.011, Florida
14 Statutes, is amended to read:

15 106.011 Definitions.--As used in this chapter, the
16 following terms have the following meanings unless the context
17 clearly indicates otherwise:

18 (13) "Communications media" means broadcasting
19 stations, newspapers, magazines, outdoor advertising
20 facilities, printers, direct mailing companies, advertising
21 agencies, the internet, and telephone companies; but with
22 respect to telephones, an expenditure shall be deemed to be an
23 expenditure for the use of communications media only if made
24 for the costs of telephones, paid telephonists, or automatic
25 telephone equipment to be used by a candidate or a political
26 committee to communicate with potential voters but excluding
27 any costs of telephones incurred by a volunteer for use of
28 telephones by such volunteer.

29 Section 2. Section 106.1437, Florida Statutes, is
30 amended to read:

31 106.1437 Miscellaneous advertisements.--

1 (1) As used in this section, the term:

2 (a) "Electioneering advertisement" means a paid
3 expression in any communications media prescribed in s.
4 106.011(13) published on the day of any election or any of the
5 the preceding 29 days which names or depicts a candidate for
6 office in that election or which references a clearly
7 identifiable ballot measure in that election. Any
8 advertisement that qualifies as an independent expenditure
9 pursuant to s. 106.011(5) or a political advertisement
10 pursuant to s. 106.011(17) is not an electioneering
11 advertisement for purposes of this section.

12 (b) "Contribution" means:

13 1. A gift, subscription, conveyance, deposit, loan,
14 payment, or distribution of money or anything of value,
15 including contributions in kind having an attributable
16 monetary value in any form, made for the purpose of funding or
17 sponsoring an electioneering advertisement.

18 2. A transfer of funds between a political committee
19 or a committee or continuous existence and a person funding or
20 sponsoring an electioneering advertisement.

21 3. The payment, by any person other than a candidate
22 or political committee, of compensation for the personal
23 services of another person which are rendered to a person
24 funding or sponsoring an electioneering advertisement.

25 (c) "Expenditure" means a purchase, payment,
26 distribution, loan, advance, or gift of money or anything of
27 value made for the purpose of funding or sponsoring an
28 electioneering advertisement. However, the term does not
29 include a purchase, payment, distribution, loan, advance, or
30 gift of money or anything of value made for the purpose of
31 funding or sponsoring an electioneering advertisement when

1 made by an organization, in existence prior to the time during
2 which a candidate qualifies or a ballot measure is placed on
3 the ballot for that election, for the purpose of printing or
4 distributing such organization's newsletter, containing a
5 statement by such organization in support of or opposition to
6 a candidate or ballot measure, which newsletter is distributed
7 only to members of such organization.

8 (2) Each person that sponsors or funds an
9 electioneering advertisement must file regular reports of all
10 contributions received and all expenditures made by such
11 person with the same officer as a political committee
12 supporting or opposing the candidate named or depicted or the
13 ballot measure referenced in the advertisement. Such reports
14 must contain the same information and are subject to the same
15 filing requirements as reports required of candidates in s.
16 106.07.

17 (3)(a) If the initial publication of the
18 electioneering advertisement occurs after the final regular
19 report is due under subsection (2) but prior to the closing of
20 the polls on election day, the person funding or sponsoring
21 the advertisement must file a report electronically with the
22 division no later than 1 hour after the initial publication of
23 the advertisement. The report must contain the same
24 information as required of a candidate by s. 106.07(4). Upon
25 receipt of the filing, the division shall electronically
26 transmit a confirmation of receipt to the person filing the
27 report. If the person is unable to file electronically for any
28 reason, a written report containing the required information
29 may be faxed or hand delivered to the division no later than 1
30 hour after the initial publication of the advertisement.
31 However, if a report due to be filed under this paragraph on a

1 Saturday, Sunday, or legal holiday cannot be electronically
2 filed because of problems with Internet communications, the
3 report must be filed either electronically, by facsimile, or
4 by hand delivery with the division no later than 10 a.m. on
5 the next business day.

6 (b) The division shall adopt rules providing for
7 electronic filing which must, at a minimum, provide that:

8 1. The division develop an electronic filing system
9 using the Internet or other on-line technologies; and

10 2. The system be reasonably secure and be designed to
11 elicit the name, address, birthdate, and any other information
12 necessary to authenticate the identity of the person
13 submitting the report.

14 (c) Information filed with the division pursuant to
15 this subsection must also be included on the next regular
16 report required under subsection (2).

17 (4)(a) The following persons shall be responsible for
18 filing the reports required in subsections (2) and (3), shall
19 certify as to the correctness of each report, and shall bear
20 the responsibility for the accuracy and veracity of each
21 report:

22 1. The candidate and his or her campaign treasurer, if
23 the person funding or sponsoring the electioneering
24 advertisement is a candidate.

25 2. The committee chair and treasurer of the committee,
26 if the person funding or sponsoring the electioneering
27 advertisement is a political committee, committee of
28 continuous existence, or executive committee of a political
29 party;

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1 3. The individual, if the person funding or sponsoring
2 the electioneering advertisement is a natural person who is
3 not a candidate; or

4 4. An individual designated by the organization, if
5 the person funding or sponsoring the electioneering
6 advertisement is a group other than a political committee,
7 committee of continuous existence, or executive committee of a
8 political party. The name, address, and title of the
9 designated individual must be filed with the division in
10 writing prior to, or contemporaneous with, the filing of the
11 initial report.

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13 Such a person is liable for violations of report filing
14 requirements to the same extent as candidates pursuant to ss.
15 106.07(5), 106.19, and 106.265.

16 (b) In addition to the penalties prescribed in
17 paragraph (a), the person funding or sponsoring an
18 electioneering advertisement and the person responsible for
19 reporting pursuant to this subsection shall be jointly and
20 severally liable for late filing fines assessed by the Florida
21 Elections Commission pursuant to s. 106.07(8). Any such person
22 may appeal or dispute the fine in accordance with the
23 provisions of s. 106.07(8)(c).

24 (6)(a) Any electioneering advertisement must
25 prominently state, "Paid advertisement paid for or sponsored
26 by ... (Name(s) of person or persons funding or sponsoring the
27 electioneering advertisement)...," followed by the addresses
28 of all persons funding or sponsoring the advertisement.

29 (b) The Florida Elections Commission is authorized
30 upon finding a violation of this subsection to impose a civil
31 penalty in the form of fines not to exceed \$5,000 or the total

