

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ethics and Elections Committee

BILL: CS/SB 2648

INTRODUCER: Ethics and Elections Committee and Senator Deutch

SUBJECT: Political Advertising

DATE: April 23, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Fav/CS
2.			JU	
3.			TA	
4.				
5.				
6.				

I. Summary:

Committee Substitute for Senate Bill 2648 requires the Division of Elections to create and administer a Florida Campaign Sunshine website, containing and displaying many of the political advertisements and electioneering communications run during a campaign cycle. Any person or organization responsible for the creation or publication of certain political advertisements and electioneering communications must submit a copy in the form it is published, along with any supporting documentation cited in the ad or communication, to the division within 3 days after its initial publication, or, during the final week of a campaign, within 24 hours after its initial publication. The division must post the advertisements, communications, and supporting documentation within 24 hours of receipt, along with sponsorship identification information for the person or organization paying for the ad. The division must also provide an online link to the payor’s campaign finance information on the division’s web site.

This bill creates an unnumbered section of the Florida Statutes.

II. Present Situation:

A “political advertisement” means a paid expression in any communications media, whether, radio, television, newspaper, magazine, periodical, campaign literature, direct mail, billboard --- essentially any means of publication other than the spoken word in direct conversation --- which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue (i.e., “vote for ...,” “vote against ...,” “support ...”).¹ All but the most nominal political advertisements must identify that the ad is a paid political advertisement in some manner and

¹ Section 106.011(17), F.S.

must include a sponsorship identification disclaimer.² Ads offered by or on behalf of a candidate, except independent expenditures, must expressly state that the content of the ad was approved by the candidate and must state who paid for the advertisement.³

An “electioneering communication” means essentially a paid expression in any communications media by means other than the spoken word in direct conversation that refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, *without expressly advocating* the election or defeat of a candidate or the passage or defeat of an issue, *provided*:

- For communications involving candidates, the communication will reach over 1,000 voters in the geographic area the candidate would represent if elected; or,
- For communications involving issues, the communication is published after the issue is designated ballot position *or* 120 days before the election, whichever occurs first.⁴

There is currently no central repository for campaign political advertisements or electioneering communications.

III. Effect of Proposed Changes:

The bill requires the Division of Elections to create and administer a Florida Campaign Sunshine website, containing and displaying many of the political advertisements and electioneering communications run during a campaign cycle. The bill exempts *candidate* political advertisements that are targeted to less than 1,000 persons in the geographic area the candidate would represent; it exempts statewide and multicounty *issue-based* political ads that are published before the issue is designated a ballot position or 120 days before the election, whichever occurs first.

Any person or organization responsible for the creation or publication of these so-called “targeted” political advertisements and electioneering communications must submit a copy in the form it is published, along with any supporting documentation cited in the ad or communication, to the division within 3 days after its initial publication, or, during the final week of a campaign, within 24 hours after its initial publication. The division must post the advertisements, communications, and supporting documentation within 24 hours of receipt, along with sponsorship identification information for the person or organization paying for the ad. The division must also provide an online link to the payor’s campaign finance information on the division’s web site.

The bill takes effect July 1, 2007.

² Section 106.143(1), F.S.

³ Section 106.143(4), F.S.

⁴ Section 106.011(18), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Candidates, campaigns, and those responsible for creating and paying for political advertisements may incur some nominal administrative costs in timely providing the political advertisements to the Division of Elections and forwarding the necessary supporting documentation. The precise costs are indeterminate at this time.

C. Government Sector Impact:

The Department of State provided the following cost estimate on the original Senate Bill 2648.⁵ The current Committee Substitute for CS/SB 2648, while narrowing slightly the scope of political advertisements to be included in the new Florida Campaign Sunshine website, greatly expands its scope by including electioneering communications. Thus, the costs discussed below may be greater.

Expenditures

1. Recurring

General Revenue:

Salaries and Benefits	19 FTE's	\$1,529,516	\$1,529,516	\$1,529,516
Expenses		\$588,385	\$523,291	\$523,291
Operating Capital Outlay		\$24,700	\$0	\$0
Human Resources Services		\$7,619	\$7,619	\$,619

⁵ Memorandum from Department of State to Senate Fiscal Policy and Calendar Committee (March 13, 2007).

Recurring costs for software licenses and support are estimated at \$400,000 per year.

2. Non-Recurring:

Costs for hardware and software for the initial system is projected at \$3,485,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of State's fiscal analysis on the original bill comments that, "[d]uring peak times, the Department would not be able to provide the advertisements on the web site within 24 hours of receipt..." due to the significant formatting and ADA-compliance issues involved. Further, the analysis indicates that the Division would not be able to implement the bill by the July 1, 2007 effective date: at least a year would be necessary to procure the necessary hardware and software to develop the system.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
