

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/HB 273

SPONSOR: House Procedural & Redistricting Council, House Committee on Rules, Ethics & Elections, Representatives Ross, Goodlette, and others

SUBJECT: Election Reporting Requirements; Issue Advocacy

DATE: April 16, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Bradshaw	EE	Favorable
2.	_____	_____	AGG	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Committee Substitute for House Bill 273 (“the committee substitute”) is an act relating to reporting requirements under the Florida Election Code. Specifically, the committee substitute makes the following substantive changes to Chapter 106, F.S.:

- Modifies the definition of “political committee” in response to *Florida Right to Life v. Mortham*, No. 98-770-CIV-ORL-19A (M.D. Fla. 1999), *aff’d*, *Florida Right to Life v. Lamar*, No. 00-10245 (11th Cir. January, 17, 2001). The current definition of “political committee” was determined to be unconstitutionally over broad because it subjected pure issue advocacy groups to the registration and reporting requirements of Florida’s campaign finance laws.
- Modifies the definition of “communications media” to include the Internet.
- Requires the statement of organization of a political committee and committees of continuous existence (“CCEs”) to include the principle employer of every officer. CCEs are required to report membership dues in the same manner as regular contributions.
- Candidates, committees, and political parties who receive contributions or make expenditures in an aggregate amount over \$10,000 in a calendar year will be required to file campaign treasurer’s reports by electronic means via the Division of Elections’ Internet web site. Statewide candidates involved in campaigns where at least one candidate has requested public financing are required to file the report due on the Friday immediately preceding the general election no later than noon, rather than 5 p.m. Requires the Division to adopt specific rules and systems to administer electronic filing requirements.
- Reporting periods are condensed for political committees, committees of continuous existence, and persons making independent expenditures to require weekly reporting

periods from the last day of qualifying to the ensuing general election. Otherwise, reports are to be filed monthly.

- Creates a new category of issue advertisements, called “campaign-related advertisements,” subjecting organizations running such ads to registration, reporting, and disclaimer requirements.
- Revises provisions relating to the reporting of certain independent expenditures made during the period following the last day of qualifying through the ensuing general election.

With the exception of Section 1, the committee substitute has an effective date of October 1, 2001.

This committee substitute substantially amends the following sections of the Florida Statutes: 106.011, 106.03, 106.04, 106.07, 106.071, 106.12, and 106.29. The committee substitute amends the following sections of Florida Statutes, to conform: 105.08, 106.025, 106.08, 106.18. The committee substitute also creates sections 106.0705 and 106.073, Florida Statutes.

II. Present Situation:

Definition of “Political Committee”

Section 106.011(1), F.S., defines a “political committee” in relevant part, as follows:

[A] combination of two or more individuals, or a person other than an individual, the primary or *incidental purpose* of which is to support or oppose any candidate, issue, or political party, which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$500. (Emphasis added).

(emphasis added). On December 15, 1999, the Federal District Court for the Middle District of Florida held that several provisions of Florida law, including the definition of Apolitical committee,@violated the First and Fourteenth Amendments to the U.S. Constitution. *Florida Right to Life v. Mortham*, No. 98-770-CIV-ORL-19A (M.D. Fla. 1999). The court held that the existing statutory definition was too broad because it subjected pure issue advocacy groups --- groups which support a particular non-ballot issue, are not controlled by a candidate, and whose *major purpose* is not the election or defeat of a candidate --- to the registration and reporting requirements of Florida’s campaign finance laws. On January 17, 2001, the Eleventh Circuit U.S. Court of Appeals affirmed the district court opinion, *per curium*. *Florida Right to Life, Inc. v. Lamar*, No. 00-10245 (11th Cir. 2001).

The courts’ decision permanently enjoins the Florida Elections Commission from enforcing the definition of Apolitical committee@in section 106.011(1), Florida Statutes. For practical purposes, there is currently no statutory definition of Apolitical committee.@Since this definition impacts numerous other provisions of the campaign finance law dealing with political committee registration and reporting requirements, its precise impact is unclear.

During the 2000 election, new political groups (those not registered with the Division of Elections as a political committee prior to the district court's ruling on December 15, 1999) were not required to register as political committees and file contribution and expenditure reports. As a result, a number of negative advertising campaigns surfaced during the 2000 elections funded by "shadow" groups with no public accountability.

Some very adverse consequences may accompany the Legislature's failure to adopt a new definition of a political committee. Possible adverse impacts include:

- *Contribution Limits:* although persons and groups are still limited to making \$500 contributions to candidates, *Florida Right to Life* may allow any person or group to make an unlimited contribution to groups supporting or opposing candidates (formerly known as political committees).
- *Contribution and Expenditure Reports:* *Florida Right to Life* may eliminate the requirement that groups which were formerly known as political committees file periodic reports of contributions and expenditures pursuant to s. 106.07.
- *Political Advertising Disclaimers:* sponsorship disclaimers are still required on political advertisements and independent expenditures after *Florida Right to Life*; however, since new political groups no longer need to register as political committees, it would be very difficult to trace the source of funding for such groups who use misleading names --- such as the ACommittee for Goodness and Virtue@ or the ACommittee for Equity and Justice.@"

Any one, or a combination, of these impacts could undermine the overall integrity of Florida's campaign finance laws.

Definition of "Communications Media"

For purposes of the Florida Election Code, the term "communications media" is defined as meaning "broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mailing companies, advertising agencies, and telephone companies; but with respect to telephones, an expenditure shall be deemed to be an expenditure for the use of communications media only if made for the costs of telephones, paid telephonists, or automatic telephone equipment to be used by a candidate or a political committee to communicate with potential voters but excluding any costs of telephones incurred by a volunteer for use of telephones by such volunteer." The current definition does not expressly include the Internet.

Registration and Reporting Requirements for Political Committees and Committees of Continuous Existence ("CCEs")

Under the Florida Election Code, political committees and CCEs are required to register with the Division of Elections and file periodic financial reports. See Sections 106.03, 106.04 and 106.07, F.S. The statement of organization for these groups must include the following information:

- Name and address of the committee;
- Names, addresses, and relationship of affiliated organizations;
- Area, scope, and jurisdiction of the committee;
- Name, address, and position of the custodian of accounts and other principal officers; and
- Name and address of candidates being supported or issues being opposed or supported by the committee.

The periodic financial reports detail the group's contribution and expenditure activities. Further, CCEs must file an annual report outlining essentially the same organizational information required of the committee's initial registration. Under current law, CCEs are not required to provide a detailed accounting of contributions in the form of dues by individual donors nor the amount of each such due; only the aggregate amount of dues must be listed together with the total number of members paying such dues. Section 106.04(4)(c)1., F.S.

Campaign Treasurer's Reports

Generally, candidates, political committees, CCEs, and state executive committees of political parties are required to report all contributions received and expenditures made by way of campaign treasurer's reports filed with the Division of Elections.

Reports must be filed quarterly except after the last day of qualifying when the reports are due every two weeks leading up to each of the three elections: the first and second primaries and the general election [corresponding statutory days are the 32nd, 18th, and 4th days preceding the first primary and the 18th and 4th days preceding the second primary and general election]. For candidates receiving funds under the provisions of the Florida Election Campaign Financing Act (public financing of campaigns), reports are due weekly preceding each of the three elections [corresponding due dates are the 32nd, 25th, 18th, 11th, and 4th days preceding the first primary and the 25th, 18th, 11th, and 4th days preceding the second primary and general election]. CCE's resume filing quarterly reports after the general election.

Campaign treasurer's reports include the following components:

- Campaign Treasurer's Report Summary (form DS-DE 12) - Shows a "snapshot" of the aggregate amount of contributions received and expenditures made for the reporting period.
- Campaign Treasurer's Report - Itemized Contributions (form DS-DE 13) - Itemized ledger including contributor's name, address, occupation, contribution type, and amount.
- Campaign Treasurer's Report - Itemized Expenditures (form DS-DE 14) - Itemized ledger including name and address of entity receiving payment, purpose of expenditure, expenditure type, and amount.
- Magnetic Diskette - Computer diskette that includes itemized contributions and expenditures in an electronic format that can be uploaded.

For committees and candidates who are unable to provide a magnetic diskette, paper copies of the forms are acceptable.

The Division estimates that approximately 40 percent of candidates filing campaign treasurer's reports file a magnetic diskette. This number is much lower for committees. All paper reports filed must be data-entered by Division staff --- a time-consuming effort. Moreover, some of the software utilized by various campaign treasurers is incompatible with the Division's computer system, or the magnetic diskettes submitted are unreadable, requiring further use of the Division's staff to manually input the required information.

Reports are due by 5 p.m. on the designated due date. Reports are accepted as timely filed if they are postmarked by midnight on the due date by the U.S. Postal Service. The Division posts the reports on the Internet upon receipt of all reports for a particular race so as not to benefit one candidate over another. This can, in effect, lengthen the time it takes the Division to release the information to the public.

Issue Ads

In general, groups who wish to support or oppose a candidate, issue, or political party must first register with the Division of Elections as a political committee. For purposes of the Florida Election Code, an "issue" is defined as "any proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election." Section 106.011(7), F.S. With few exceptions, "political advertisements" must include a "paid for by" disclaimer identifying who is responsible for the particular advertisement. See generally, sections 106.071 and 106.143, F.S.; *Doe v. Mortham*, 708 So.2d 929 (Fla. 1998)]. "Political advertisement" is defined in pertinent part as meaning:

A paid expression in any communications media . . . 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.

Section 106.011(17), F.S. Absent any filing requirements for these organizations, the name placed on the disclaimer alone may not adequately identify the persons responsible for the advertisement.

Advertisements that discuss non-referendum issues of public interest and which may include references to or likenesses of candidates are not regulated under Florida law, regardless of the practical impact on the election or defeat of a candidate. As such, these advertisements do not have to include the phrase "paid political advertisement," or similar expression, nor does the advertisement have to identify the sponsoring individual or group. Because such an advertisement is not considered to be a contribution or expenditure under the Florida Election Code, there is no limit to the amount that can be spent in coordination with, or independent of, any candidate.

Independent Expenditures

An “independent expenditure” is defined, in pertinent part, as “an expenditure by a person for the purpose of advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee.” Section 106.011(5)(a), F.S. Under current law, each person who makes an independent expenditure with respect to a candidate or issue which, in the aggregate, is in the amount of \$100 or more, must file a periodic report with the same officer as a political committee supporting or opposing the candidate or issue would be required to file. The report must contain the full name and address of each person to whom and for whom the expenditure was made; the amount, date, and purpose of the expenditure; a description of the services or goods obtained by the expenditure; and the name, address and office sought by the candidate on whose behalf the expenditure was made. Section 106.071(1), F.S.

Section 106.085, Florida Statutes, requires an individual or organization making an independent expenditure of more than \$1,000 on behalf of or in opposition to a candidate to provide two separate notices:

- Within 24 hours after obligating the funds for the expenditure, provide notice and a general description of the expenditure.
- Notice of the obligation of the expenditure must be made at least five days prior to an election.

The person making the independent expenditure must provide the notices to all candidates in the affected race and to the candidates’ qualifying officer. An expenditure is considered “obligated” upon the purchase of any political advertising or the entering into an agreement to purchase a political advertisement. However, these “unfair surprise” provisions have been held unconstitutional as a prior restraint on speech. See, *Florida Right to Life v. Crotty*, No. 98-770-CIV-ORL-19A (M.D. Fla. 1999).

III. Effect of Proposed Changes:

Definition of “Political Committee”

The committee substitute requires all groups making or receiving contributions, or making express advocacy expenditures, in excess of \$500 per calendar year to register and report as a political committee --- while carving out a narrow exemption for groups which engage exclusively in non-ballot issue advocacy. Specifically, the committee substitute amends the definition of political committee to include any group which: 1) makes or accepts contributions¹ in support or opposition to any candidate, ballot issue, or political party; or, 2)

¹ Contribution means essentially anything of value, including money, gifts, loans, etc., made for the purpose of influencing the results of an election. s. 106.011(3), F.S. As such, pure issue advocacy groups do not make or receive contributions as defined by Florida Statutes, although their activities and advertisements may have an *incidental effect* upon the election of a candidate or issue. See, e.g., *Buckley v. Valeo*, 96 S.Ct. 612, 645-47 (1976) (candidates may be intimately tied to public issues).

expressly advocates the election or defeat of any candidate or ballot issue, in an aggregate amount of more than \$500 per calendar year.

Definition of “Communications Media”

For purposes of the Florida Election Code, the committee substitute clarifies that the Internet is considered a communications medium, and therefore expression over the Internet is subject to the campaign finance provisions if the expression otherwise satisfies the statutory definition of a political advertisement or campaign-related advertisement.

Registration and Reporting Requirements for Political Committees and Committees of Continuous Existence (“CCEs”)

The committee substitute requires that additional information be provided in the registration of both political committees and CCEs. Specifically, these committees would be required to include the principal employer of the custodian of books and accounts, and the principal employer of each other principal officer. The committee substitute also requires that membership dues of committees of continuous existence be reported in the same manner as regular contributions. The full name, address, and occupation of each person who has made one or more contributions that represent the payment of membership dues would be reported. The committee substitute removes the discretionary authority of the Division of Elections to make available membership lists for inspection.

Campaign Treasurer’s Reports

The committee substitute streamlines the reporting process by providing campaign treasurers direct access to the Division’s computer servers via the Division’s Internet web site to either directly transfer the campaign treasurer’s report data, or to directly input the information. Second, heightened public disclosure will be available, as the information contained in the campaign treasurer’s report will immediately become accessible on the Division’s Internet web site for public scrutiny.

Specifically, the committee substitute requires candidates, political committees, committees of continuous existence, and political party executive committees to file campaign finance reports by electronic means if they receive contributions or make expenditures in the aggregate of \$10,000 in a calendar year. Reports required to be filed electronically are due by 5 p.m. on the due date. There is no grace period for the timely filing of electronic reports. For statewide candidates engaged in a race wherein one of the candidates has requested to receive contributions under the Florida Election Campaign Financing Act, the candidates must file their last report not later than noon on the Friday immediately preceding the general election, rather than the current 5 p.m. deadline. Additionally, the Division is given rulemaking authority to administer the provisions contained in the committee substitute.

The committee substitute also shortens the current quarterly and bi-weekly reporting periods for political committees, committees of continuous existence, persons making independent expenditures and organizations making campaign-related advertisements (as created in this committee substitute) by requiring monthly reports in lieu of quarterly reports and weekly

reports in lieu of bi-weekly reports. Monthly reports will be due three business days after the close of the reporting period, while weekly reports will be due two business days after the close of the reporting period leading up to the general election.

The amount authorized to be withdrawn by a campaign treasurer for a political committee for a petty cash fund is modified from \$500 per calendar quarter to \$200 per month. This is a conforming change from quarterly reporting periods to monthly reporting periods effectuated by the committee substitute.

Issue Ads

The committee substitute creates a new section to the campaign finance provisions of the Florida Election Code requiring certain organizations that sponsor “campaign-related advertisements,” or “issue ads,” to register and submit regular contribution and expenditure reports to the Division of Elections. The advertisements would also have to include a disclaimer. The committee substitute defines a “campaign-related advertisement” as:

A paid expression in any communications media described in s. 106.011(13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, the Internet, or display or by means other than the spoken word in direct conversation, which does not specifically support or oppose any candidate, elected public official, or issue, but which does substantially mention or show a clearly identifiable candidate for election or reelection and is distributed at any point during the period following the last day of qualifying for that candidacy through the ensuing general election, and is distributed within the geographical location represented by the office sought by the candidate mentioned or shown and which, when examined by a reasonable person, would be understood as, and is therefore presumed to be, a communication made for the purpose of influencing the results of an election on that candidacy during that period, and for which aggregate expenditures on like advertisements exceed \$1,000.

The committee substitute provides that any “organization” that engages in campaign-related advertising must register with the Division. Registration must occur within 24 hours after the publication of any campaign-related advertisement sponsored by the organization. The registration would consist of the same information required of political committees under s. 106.03(2), F.S., with the addition of a complete financial statement summarizing all income received and expenses incurred by the organization since the end of its last completed fiscal year.

For purposes of this section, the term “organization” means a person as defined in s. 106.011(8), F.S. and those organizations recognized under s. 501(c) of the Internal Revenue Code, or political organizations recognized under s. 527 of the Internal Revenue Code. However, “organization” does not include individuals who act independently and expend only their own resources, thereby enhancing the voice of wealthy individuals who can afford to disseminate issue advocacy.

In addition to the registration requirement, such organizations would be required to file regular reports of all contributions and expenditures in the same manner as is required for political committee reports, including the electronic filing provisions as introduced in this committee

substitute. Within 24 hours after publication of a campaign-related advertisement under this section, the organization must file a report of the advertisement with the qualifying officer of the candidate mentioned or shown in the advertisement. Any expenditure published on the day of an election must be reported on that day. The report must contain the full name and address of each person to whom payment of the advertisement has been made or obligated; the date and purpose of the advertisement; a description of the advertisement; and the name and address of, and office sought by, each candidate mentioned or shown in the advertisement. Any organization failing to file a report on the designated due date is subject to the fines provided for in the Florida Election Code for submitting late reports. See generally, sections 106.07(5) and 106.07(8), F.S.

The committee substitute provides that campaign-related advertisements regulated under this provision contain a disclaimer providing the name of the organization paying for the advertisement, and further stating that it was neither paid for nor authorized by the candidate. In addition, the advertisement must contain the name and address of the person paying for the campaign-related advertisement. Any person responsible for submitting reports on behalf of an organization registered or required to register under this section shall be responsible for including the disclaimer. Any such person who willfully fails to include the disclaimer shall be liable for a civil fine of up to \$5,000, or the entire amount of the expenditure, whichever is greater.

The Division is given rule-making authority to implement the provisions of this section of the committee substitute.

The ability of a state to regulate issue advocacy ads raises significant constitutional free speech issues (see Section IV.D. *Other Constitutional Issues*, below).

Independent Expenditures

In an effort to provide consistency, the committee substitute makes changes to the reporting requirements for independent expenditures to mirror the reporting requirements for “campaign-related” advertisements. Specifically, the committee substitute provides that any person who makes an independent expenditure with respect to a candidate which in the aggregate exceeds \$1,000, and is made at any point during the period following the last day of qualifying through the ensuing general election for that candidacy, must report the expenditure within 24 hours after publication. The report must be filed with the qualifying officer of the candidate supported or opposed by the expenditure. For expenditures published on the day of an election, the report must be submitted on that same day.

The report must contain the full name and address of each person to whom and for whom the expenditure has been made; the amount, date, and purpose of the expenditure; a description of the services or goods obtained by the expenditure; and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made. Each report must be signed by the person submitting it and certified as being true and correct, subject to penalties provided for under the Florida Election Code. Failure to file a timely report shall subject the person making the expenditure to the same fines provided for in s. 106.07(8), F.S., for submitting late reports.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Issue Advocacy

The regulation of issue advocacy has arguably not been squarely placed before the U.S. Supreme Court for debate. Therefore, a number of reform groups maintain that the concept of regulation is still “open” and is a valid subject of state legislation.

In *Buckley v. Valeo*, 96 S.Ct. 612 (1976), the U.S. Supreme Court was faced with the constitutionality of various expenditure limits in the Federal Election Campaign Finance Act of 1974. In order to save the statute from an overbreadth problem, the Court held that the term “expenditure” encompassed “only funds used for communications which *expressly advocate* the election or defeat of a clearly-identified candidate.” (emphasis added). *Buckley*, 96 S.Ct. at 663. Express advocacy was limited to communications containing express words of advocacy such as “vote for,” “elect,” “support,” “vote against,” and other similar synonyms. *Id.* at 646-47 & fn. 52. By adopting this bright line limitation, the *Buckley* Court effectively created two categories of political advocacy: “express” and “issue” advocacy. Advocacy using the “magic words” expressed in *Buckley* and later affirmed in *Federal Election Comm’n v. Massachusetts Citizens for Life, Inc.*, 107 S.Ct. 616 (1986), could be permissibly regulated. Conversely, advocacy falling outside these parameters could not.

With very few exceptions, most notably the Ninth Circuit’s decision in *Federal Elections Commission v. Furgatch*,² the reported case decisions on issue advocacy have adopted and applied a strict interpretation of the *Buckley* “express advocacy” test to invalidate state campaign finance laws which seek to regulate pure issue ads. *Federal Elec. Comm’n v.*

² 807 F.2d 857 (9th Cir. 1987), *cert. denied*, 108 S.Ct. 151. 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)]. Furgatch held that an advertisement could expressly advocate in the absence of the “magic” words if the content and context of the advertisement unmistakably advocate in support or opposition to a candidate, and no alternative reading could be suggested. Although clearly the overwhelming minority view, the Oregon State Court of Appeals adopted the *Furgatch* approach and held that an advertisement with no “magic words” nonetheless contained express advocacy and therefore could be regulated under Oregon state law. *State ex rel. Crumpton v. Keisling*, 982 P.2d 3 (1999), *rev’w denied*, 994 P.2d 132 (2000).

Christian Action Network, 894 F.Supp. 946, 952 (W.D.Va. 1995); see also, *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*); *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); *Maine Right to Life Committee, Inc. v. Federal Elections Commission*, 914 F.Supp. 8 (D. Maine 1996), *aff'd*, 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).

Recently, the Federal District Court for the Middle District of Florida held that the definition of “political committee” violated the First and Fourteenth Amendments to the U.S. Constitution because it required issue advocacy groups to register and report contributions and expenditures. *Florida Right to Life v. Mortham*, No. 98-770-CIV-ORL-19A (M.D. Fla. 1999), *aff'd*, *Florida Right to Life, Inc. v. Lamar*, No. 00-10245 (11th Cir. 2001).

Critics of the bright-line approach charge that advertisements which include the name or likeness of a candidate, but do not expressly advocate the election or defeat of a candidate by using express words of advocacy, are a loophole increasingly being used by political parties and other groups to circumvent either contribution limits and/or disclosure requirements. Nonetheless, the Supreme Court’s decision in *Buckley* and the prevailing opinion of the vast majority of federal courts, some of whom have squarely addressed and rejected the foregoing argument,³ suggest that political advertisements which do not expressly advocate the election or defeat of a candidate using express words of advocacy may be beyond the scope of the government to regulate.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

³ As one U.S. district court explained:

What the Supreme Court did was draw a bright line that may err on the side of permitting things that affect the elections process, but at all costs, avoids restricting in any way, discussion of public issues. . . . The advantage of this rigid approach, from a First Amendment point of view, is that it permits a speaker or writer to know from the outset exactly what is permitted and what is prohibited. . . . The result is not very satisfying from a realistic communications point of view and does not give much recognition to the policy of the election statute to keep corporate money from influencing elections in this way, but it does recognize the First Amendment interest as the Court has defined it.

Maine Right to Life Committee, Inc. v. Federal Elec. Comm’n, 914 F.Supp. 8, 12 (D. Maine 1996), *aff’d*, 98 F.3d 1 (1st Cir. 1996) (appellate court essentially adopts the lower court decision).

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Division of Elections estimated in 2000, that approximately \$90,000 is spent during election years and \$50,000 during non-election years, for personnel needed to input campaign treasurer's reports filed by hard copy. The committee substitute would eliminate a high percentage of these expenditures since most reports will be filed directly to the Division's computer server, either by direct file transfer or by direct input. However, the positive fiscal impact may be offset by increased costs associated with the increased reporting periods. The Division would still be required to maintain enough personnel to input information for entities and individuals not meeting the \$10,000 threshold and thus filing by hard copy.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The committee substitute requires the use of passwords and other secure means to access the Division's computer servers to input or transfer campaign treasurer's reports via the Division's Internet web site. Passwords, identification numbers and other secure information necessary to identify the campaign treasurer to the record being accessed must be exempt from the public records requirements found under the provisions of s. 119.07, F.S. [See tied bill – CS/HB 275].

VIII. Amendments:

None.