

August 10, 2006

Ms. Chance Irvine, Chair
Florida Elections Commission
The Collins Building, Suite 224
107 W. Gaines Street
Tallahassee, FL 32399-1050

RE: DE 06-09
Committees of Continuous Existence Contributing
to Electioneering Communications Organizations;
§§106.04(5), 106.011(1)(b)3., and 106.011(3)(b),
Florida Statutes

Dear Ms. Irvine:

This is in response to your request for a formal opinion. You are Chair of the Florida Elections Commission and pursuant to section 106.23(2), Florida Statutes, the Division of Elections has the authority to issue an opinion to you.

You ask essentially the following question:

May a committee of continuous existence (CCE) make a contribution to an electioneering communications organization (ECO)?

The short answer to your question is yes.

As the Commission is acutely aware, the provisions of Chapter 106 continue to evolve over time. With each statutory revision, newly created provisions must be interpreted in conjunction with, and when at all possible, in harmony with existing provisions of law. This is particularly true in the case of the question that you have posed.

As you know, section 106.04, Florida Statutes, is the primary provision governing CCEs. It is not, however, the only provision of Chapter 106 which is applicable to them. Multiple provisions of Chapter 106 contain references to CCEs and each must be reconciled as an expression of the intent of the Florida Legislature.

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While in section 106.04(5), Florida Statutes, the Legislature has expressly prohibited a CCE from making an electioneering communication,¹ it has also provided that electioneering communications organizations, “shall be required to register with and report expenditures and contributions, **including contributions received from committees of continuous existence**, to the Division of Elections in the same manner, at the same time, and subject to the same penalties as a political committee supporting or opposing an issue or a legislative candidate, except as otherwise specifically provided in this chapter.” See section 106.011(1)(b)3., Florida Statutes, (2006). Further, the 2006 Florida Legislature amended the definition of “contribution” to include, “a transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combination of these groups.”² Therefore, although the Legislature clearly intended to restrict a CCE from making an electioneering communication of its own, the Legislature also envisioned that a CCE would, and by logical extension and definition could, make contributions to an ECO.

SUMMARY

A committee of continuous existence may make a contribution to an electioneering communications organization.

Sincerely,

Dawn K. Roberts
Director, Division of Elections

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DKR/SDL/lmg

¹ Section 106.04(5), F.S., states, “No committee of continuous existence shall make an electioneering communication, ...”

² Section 106.011(3)(b), F.S., (2006). Ch. 2006-300, Laws of Florida.