

DE 83-08 May 2, 1983

**INDEPENDENT CONTRIBUTIONS TO AN
ISSUE CAMPAIGN**

To: Mr. Bennett M Lifter, Lifter Enterprises, 17880 Northwest 2nd Avenue, Miami, Florida 33169

Prepared by: Division of Elections

Pursuant to your request, this is a Division of Elections opinion under Section 106.23(2), F.S.¹ on essentially the following question:

May a person, either individually or through a corporation expend money in support of an initiative campaign to amend the Florida Constitution without reporting expenditures or registering as a political committee?

Specifically, you wish to spend money to support the initiative campaign to amend the Constitution to permit gambling casinos in the State of Florida and to distribute and acquire signatures on the approved form. You do not wish to act in the name of the sponsor of the petition, nor do you wish to make contributions to the sponsor. In essence, you desire to make independent expenditures on behalf of the issue campaign.

An independent expenditure is defined as..."an expenditure to 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). F.S.¹

The Florida Campaign Financing Law does not prohibit an independent expenditure with respect to any candidate or issue, but any person who makes such expenditure which exceeds \$100.00, must report it in the same manner, at the same time and to the same public officer as the sponsor political committee. Section 106.071. F.S.² states:

(1) Each person who makes an independent expenditure with respect to any candidate or issue, which expenditure, in the aggregate, is in the amount of \$100.00 or more, shall file periodic reports of such expenditures in the same manner, at the same time, and with the same officer as a political committee supporting or opposing such candidate or issue. Any political advertisement paid for by an independent expenditure shall prominently state "Paid political advertisement paid for by (Name of person or committee paying for the advertisement) independently of any candidate," and shall contain the name and address of the person paying for the political advertisement.

(2) Any person who fails to include the disclaimer prescribed in subsection (1) in any political advertisement, which is required to contain such disclaimer, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) No person may make a contribution in excess of \$1,000.00 to any person, to be used by such other person to make an independent expenditure.

A “person” may be an individual or corporation. Section 106.011(8), Florida Statutes.

While independent campaign expenditures are permitted in initiative campaigns, the use of the sponsor political committee as the means to report all contributions and expenditures is preferable. One campaign financial report accomplishes the public disclosure objectives of the Act far better than multiple independent committee reports.²

An active corporation making expenditures in support of an issue campaign does not necessarily have to register as a political committee. A corporation regulated by Chapters 607 and 617 is not a political committee if its political activities are limited to contributions to candidates or political committees or expenditures in support or opposition of an issue from corporate funds and if no contributions are received by such corporation. Section 106.011(1), F.S. Therefore, so long as an active corporation makes independent expenditures without accepting contributions in an issue campaign it need not register as a political committee. However, in such case, the corporation is still required to report independent expenditures in aggregate over \$100.00 in the manner prescribed by sections 106.071, and 106.07, F.S. as discussed herein.

Another way to support the issue campaign is by direct contribution to the political committee sponsoring the petition. An individual or corporation may make such contribution without having to register as a political committee. Section 106.011(1), F.S. There is no limit to the amount of contribution. The \$3,000.00 contribution limitation in statewide issue campaigns (Section 106.08(1)(d). F.S.) has been held unconstitutional in *Let's Help Florida v. McCrary*, 453 F. Supp. 1033 (1978), affirmed 621 F. 2d 195 (1980). Of course, these contributions are reported by the sponsor committee.

In short, Florida's Campaign Finance Law requires that all campaign expenditures made on behalf of an issue campaign be reported either through the sponsor or through any person making independent expenditures so as to achieve full public disclosure of all sources of all campaign funds.

¹ Unless otherwise indicated references are to Florida Statutes (1981).

² Section 106.071 was enacted by Chapter 77-175, Laws of Florida.

