

DE 88-48 - November 7, 1988

**Political Committees
Section 106.011(1), F.S.**

To: Mr. David E. Cardwell, Attorney, Post Office Box 32092, Lakeland, Florida 33802

Prepared by: Division of Elections

This is in reference to your September 13, 1988 letter in which you asked whether a corporation not chartered or qualified to do business in Florida under Chapters 607 or 617, Florida Statutes, is a political committee within the meaning of Section 106.011(1), Florida Statutes, if the corporation makes campaign contributions from corporate funds and no contributions are received by such corporation.

You are an attorney and represent Browning-Ferris Industries, Inc. Browning-Ferris is neither chartered nor qualified to do business in Florida and is in doubt as to whether it must register as a political committee if it makes political contributions in Florida in excess of \$500 in a calendar year. Pursuant to Section 106.23(2), Florida Statutes, the Division has authority to issue this opinion.

In Division of Elections' Opinion 88-17, we opined that a foreign corporation registered and authorized to do business pursuant to Chapter 607, Florida Statutes, need not be registered as a political committee if its political activities are limited to contributions to candidates, political committees, or expenditures in support or opposition of an issue from corporate funds and if no contributions are received by such corporation. Therefore, we need only determine whether that opinion covers foreign corporations not qualified to do business in Florida pursuant to Chapter 607, Florida Statutes.

There is no indication that the Florida Legislature intended to treat Florida corporations any differently than corporations not chartered or qualified to do business in Florida. The Legislature is well aware that Congress, under the Federal Constitution, has the power "to regulate commerce...among the several states...." U.S. Const. art. I, Section 8, cl. 3. The exclusive power to regulate interstate commerce, by virtue of the Commerce Clause, lies with Congress and no state may burden interstate commerce except as permitted by Congress. State ex. rel. Leathers v. Coleman, 166 So. 226 (Fla. 1936). In addition, the U.S. Constitution and Florida Constitution both guarantee "due process of law" which requires that statutes operate alike upon all in similar conditions. Seaboard Air Line R. Co. v. Simon, 47 So. 1001 (Fla. 1908), Rabin v. Conner, 174 So.2d 721 (Fla. 1965).

Therefore, in view of the Commerce Clause of the U.S. Constitution and the Due Process Clauses of both the U.S. Constitution and Florida Constitution, Section 106.011(1), Florida Statutes, does not operate to regulate corporations not qualified to do business in Florida any differently than a corporation which is chartered or qualified to do business in Florida.

In answer to your question, a foreign corporation not qualified to do business in Florida under Chapter 607, Florida Statutes, is not a political committee within the meaning of Section 106.011(1), Florida Statutes. Therefore, so long as the corporation's political activities are limited to contributions to candidates, political committees, or expenditures in support or opposition of an issue from corporate funds and the corporation does not receive contributions for such purposes, the corporation need not register as a political committee.

SUMMARY

A foreign corporation not chartered or qualified to do business in Florida under Chapter 607, Florida Statutes, is not a political committee under Section 106.011(1), Florida Statutes, if its political activities are limited to contributions to candidates, political committees, or expenditures in support of or opposition to an issue from corporate funds and if no contributions are received by the corporation for such purposes.