

DE 90-32 - August 28, 1990

**Political Committee and Committee of Continuous Existence Expenditures
Section 106.011, F.S.**

*To: Mr. Charles A. Mancuso, Financial Centre West, 1701 West Hillsboro Boulevard, Suite 203,
Deerfield Beach, Florida 33442*

Prepared by: Division of Elections

This is in reference to your request for an opinion. The Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions relating to the Florida Election Code, Chapters 97-106, Florida Statutes, to certain organizations including political committees and committees of continuous existence. You are General Counsel for the Florida Association of Plumbing-Heating-Cooling Contractors and ask for this information on behalf of the executive committee of the association. The association has a committee of continuous existence which is registered with the Division pursuant to Section 106.04, Florida Statutes.

You have asked:

- (1) May political action committee (PAC) funds be utilized to cover certain travel expenses such as airfare, lodging, and meals of committee members as a result of travel incurred to support or oppose any candidate, issue, or political party as defined in Section 106.011, Florida Statutes?
- (2) May PAC funds be used to retain a lobbyist to support or oppose any candidate, issue, or political party as defined in Section 106.011, Florida Statutes, on behalf of the association?

Because you are a committee of continuous existence, we must necessarily point out some differences between political action committees, committees of continuous existence, and political committees in the discussion that follows.

Under the Florida Election Code, there are two types of political organizations: the political committee (PC) and the committee of continuous existence (CCE). Under Florida law, there are several differences between a PC and a CCE, but the major difference is that 25% of the CCE's income must come from dues or assessments paid by its membership on a regular basis. In addition, the names of the members contributing the dues or assessments do not have to be itemized on the CCE's campaign treasurer's report each time dues or assessments are paid to the CCE. A PC on the other hand, is 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 excess of \$500. Technically, PAC is an acronym for political action committee which refers to political organizations regulated by federal legislation.

Both PC's and CCE's may make political contributions and expenditures in excess of \$500 per year. An expenditure is defined for the purposes of the Florida Election Code, in pertinent part, as a payment or purchase made for the purpose of influencing the results of an election. Section 106.011 (4), Fla. Stat. Election, in turn, is defined as an election held in this state for the purpose on nominating or electing candidates to public office, choosing delegates to the national nominating convention of political parties, or submitting an issue to the electors for their approval or rejection. Section 106.011(6), Fla. Stat. Finally, issue is defined as a proposition which is required by the State Constitution, 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 the proposition placed on the ballot at any election. Section 106.011(7), Fla. Stat.

There are differences between PC's and CCE's as to what kind of contributions or expenditures each can make. Section 106.011(5), Florida Statutes, limits the activities of a CCE to making contributions to candidates unless the CCE is also registered as a PC. Therefore, both PC's and CCE's may support candidates. However, a CCE must first register as a PC before making a contribution in support of an issue.

Thus, in answer to your first question, whether PC funds may be utilized to cover certain travel expenses such as airfare, lodging, and meals of committee members as a result of travel incurred to support or oppose any candidate, issue, or political party, as long as your committee members are engaged in the above-defined activities, any expenditures directly associated with such activities are allowable. Travel, meals and lodging are included. However, a CCE could not pay such expenses in connection with an issue without first registering as a PC.

In reference to your second question, Webster's Ninth New Collegiate Dictionary defines lobbyist as one who conducts activities aimed at influencing public officials, especially members of a legislative body, on legislation. Black's Law Dictionary defines a lobbyist as one who makes it a business to see members (legislators for example) and procure, by persuasion, importunity, or the use of inducements, the passing of bills, public as well as private, which involves gain to the promoters. Blacks Law Dictionary 1086 (4th ed. 1968).

Given the foregoing definitions, legislation could take the form of a proposition submitted to a vote of the electorate. Such would be the case with a Joint Resolution of the Legislature, or an action of a local governing body placing an issue before the local electorate. As stated previously, a lobbyist employed by a CCE could not be paid by the CCE for such purposes, but a lobbyist for a PC could. In addition, a lobbyist may not be employed by a PC or a CCE for the purpose advocating other types of legislation, i.e., general or special bills or action not related to placing an issue on the ballot. Similarly, since the definition of lobbyist does not encompass the advocacy or promotion of candidates for public office or delegates to political party nominating conventions, such persons could not be so employed by PC's or CCE's.

Your second question, in substance, asks whether a lobbyist can lobby on behalf of the association and

be paid from CCE funds. The answer to this must be no because the association is a separate and distinct entity from the CCE. The CCE may employ a lobbyist to persuade or advocate issues related to the interests of the CCE provided it first registers as a PC.

SUMMARY

As long as members of a political committee (PC) are engaged in activities defined in Section 106.011, Florida Statutes, and as long as members of a committee of continuous existence (CCE) are engaged in activities defined in Section 106.04, Florida Statutes, funds may be used to cover travel and related expenses. A CCE may not pay a lobbyist to advocate issues or legislation in the form of resolutions or ordinances designed to place issues before the electorate without first registering as a PC. PC's and CCE's may not employ lobbyists to advocate general legislation which does not require approval by the electorate or to persuade or advocate association issues.