

DE 94-01 - January 4, 1994

Independent Expenditures by Corporations
§§ 106.011(1), (5),(8), 106.08, F.S.; and DE 78-13

TO: Ms. Jodi L. Chase, General Counsel, Florida Business Forum, Inc., Post Office Box 10085, Tallahassee, Florida 32302

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion regarding independent expenditures. You are the General Counsel for Florida Business Forum, Inc., a Committee of Continuous Existence (CCE). Therefore, pursuant to Section 106.23(2), Florida Statutes, the Division has authority to issue this opinion to you.

In your opinion request letter and subsequent telephone conversations with this office, you state that several corporate members of the CCE desire to make independent expenditures from their individual corporate funds without the CCE's involvement. The corporate members would engage in no fund-raising activities. Instead, using individual corporate funds, the corporate members would pool their money and give the money to one corporate member to make an independent expenditure.

Based on the foregoing, you ask, essentially, the following:

Whether two or more corporations, using each corporation's own corporate funds, may pool their money and jointly make an independent expenditure with one of the corporations collecting the money and making the expenditure?

For the reasons which follow, the answer to your question is yes. However, if either the amount collected or the amount spent for the independent expenditure exceeds \$500, the corporations which pooled their funds to make the independent expenditure would have to register as a political committee. See, § 106.011(1), Fla. Stat.

The Florida Election Code defines an independent expenditure as an expenditure by a person made on behalf of or in opposition to a candidate or issue where such expenditure is not "controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee...." § 106.011(5), Fla. Stat. Person, in turn, has been defined to include a corporation. § 106.011(8), Fla. Stat. A corporation may, therefore, make an independent expenditure.

In addition, several corporations may each contribute to a political committee. See, Op. Div. Elect. 78-13 (February 24, 1978). A corporation also may make an independent expenditure without registering as a political committee as long as it is formed for purposes other than to support or oppose issues or candidates, its political activities are limited to contributions to candidates, political parties, or political committees or expenditures in support of or opposition to an issue from corporate funds, and

no contributions are received by such corporation. See, § 106.011(1), Fla. Stat.

However, once individual corporations combine together to support or oppose any candidate, issue, or political party and either the amount collected or amount spent by such corporations exceeds \$500, the individual corporations must register as a political committee.

Therefore, several corporations may pool their funds to share the cost of an independent expenditure. However, each corporation must make and account for its expenditures separately. If two or more corporations receive contributions or make expenditures in excess of \$500, such corporations would have to register as a political committee and would be subject to the contribution limits prescribed in Section 106.08, Florida Statutes.

SUMMARY

A corporation may make independent expenditures. Several corporations may pool their funds to share the cost of an independent expenditure. Such expenses must be made and accounted for by each corporation separately. However, if two or more corporations combine to receive contributions or make expenditures in excess of \$500, such corporations must register as a political committee.