

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ethics and Elections Committee

BILL: SB 2660

INTRODUCER: Senator Rich, Senator Wilson, and others

SUBJECT: Campaign Contributions

DATE: March 31, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubinas	Rubinas	EE	Pre-meeting
2.	_____	_____	CJ	_____
3.	_____	_____	JU	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 2660 makes it a third-degree felony for a state legislator, statewide officeholder, or candidate for such office to knowingly and willfully:

- o Solicit, cause to be solicited, or accept any contribution to, or on behalf of, a political committee ("PC"), committee of continuous existence ("CCE"), electioneering communications organization ("ECO"), or federal 527 organization (other than a political party or the candidate's campaign) ["federal 527/nonparty - noncampaign"].
- o Control, coordinate, or consult with any of the aforementioned committees and organizations.

The bill takes effect July 1, 2006.

Senate Bill 2660 substantially amends section 106.08 of the Florida Statutes.

II. Present Situation:

Florida Senate Rule 1.36 prohibits a Senator, *during a regular, extended, or special session*, from soliciting, causing to be solicited, or accepting any contribution on behalf of:

- o The Senator's own campaign (other than a contribution from the Senator's own funds);
- o Any organization described under section 527 or section 501(c)(4) of the Internal Revenue Code;
- o Any PC;
- o Any CCE;
- o Any political party; or,
- o The campaign of any candidate for the Senate.

There are currently no *statutory* provisions that *directly* prohibit state legislators, statewide officeholders, and candidates for those offices from soliciting or accepting contributions for a PC, CCE, ECO, or federal 527/nonparty - noncampaign. Nor is there any *direct* statutory prohibition against such persons controlling, coordinating, or consulting with a PC, CCE, ECO, or federal 527/nonparty-noncampaign, except insofar as “independent expenditures” are concerned. *See* s. 106.011(5) (prohibiting coordination in the context of “independent expenditure” advertisements that expressly advocate the election or defeat of a candidate). In fact, it is commonly knowledge that several legislators have established, control, and/or operate these committees and organizations.

III. Effect of Proposed Changes:

Senate Bill 2660 makes it a third-degree felony for a state legislator, statewide officeholder, or candidate for such office, directly or indirectly, to knowingly and willfully:

- o Solicit, cause to be solicited, or accept any contribution to or on behalf of a PC, CCE, ECO, or federal 527/nonparty - noncampaign; and
- o Control, coordinate, or consult with any of the aforementioned committees and organizations.

The bill takes effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill raises serious free speech and associational rights protected under the state and federal constitutions, which appear to present a question of first impression for the Florida courts. U.S. CONST., AMEND. I; ART. I, ss. 4-5, FLA. CONST. *See, State v. Dodd*, 561 So.2d 263 (Fla. 1990) (invalidating Florida statute prohibiting state legislative and statewide candidates from accepting or soliciting any campaign contribution during a regular or special session as an overbroad intrusion upon free speech and association rights); *but see, California Medical Assoc. v. Federal Election Commission*, 101 S.Ct. 2712 (1981) (upholding \$5,000 annual limit on contributions to federal multicandidate committees in order to prevent circumvention of individual contribution limits applicable to federal candidates).

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Senate Bill 2660 dramatically alters the campaign finance landscape in Florida. It is unclear how this will impact the nature and extent of private sector contributions for the 2006 election cycle and beyond.

C. Government Sector Impact:

There may be additional criminal and/or civil investigations and cases brought pursuant to the new law, the fiscal impact of which is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A bill that establishes criminal penalties typically does not take effect for several months from the date of enactment, in order to provide adequate notice of the newly-proscribed activities. Senate Bill 2660, which establishes third-degree felony penalties, takes effect on July 1, 2006.

Senate Bill 2660 also dramatically alters the campaign finance landscape in Florida as of July 1, 2006. It is likely that many candidates and groups have developed campaign strategies and have been operating/raising money for the 2006 election cycle under the current system.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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