

May 13, 2009

The Honorable Charlie Crist
Governor, State of Florida
PL 05 Capitol
400 South Monroe Street
Tallahassee, Florida 32399-0001

Dear Governor Crist:

On behalf of the City of St Petersburg, I respectfully request that you veto Senate Bill 216 relating to campaign financing/local government expenditures.

Senate Bill 216 prohibits a local government, or any person acting on a local government's behalf, from spending public money to advocate for the passage or defeat of any issue, referendum, or amendment going to a public vote. Elected officials are elected to do what's in the best interests of the citizens and city, to stifle that duty takes away one of their responsibilities and may actually have an unconstitutional chilling effect on their First Amendment rights.

Under the bill, a local government officials and employees would be prohibited from taking an advocacy position on a multitude of issues that effect the quality of life and service in the City. There are many local issues that go to referendum and it is the duty of the local governments and their elected officials to advocate for what they believe is in the best interest of its residents. Such issues could include local option sales taxes or bond referenda to provide essential infrastructure or community services (roads, parks, schools, sewers, courthouses, jails, health care, sports stadiums etc.); land use and comprehensive planning activities (local or state "hometown democracy" proposals); or proposed constitutional amendments. The advocates for or against any of these requests would undoubtedly be well funded thereby placing any opposition to the action in an extremely disadvantaged position.

In addition, the language in the bill is quite broad, vague and ambiguous, and will likely result in local public officials and employees being subjected to criminal investigations or Florida Elections Commission proceedings, with criminal penalties and civil fines, because the local official simply ventured an opinion or advocated for what he or she believes is best for the community and its citizens. There is no bright line to as to what public statements could be a violation, even an informational campaign could be subject to the accusation that the legislation has been violated. If they were standing in city hall and asked their opinion by a citizen, in expressing their position while standing in a building paid for and operated with public funding, would they be violating this law? Does the use of any city purchased items (eg stationary, pens, computers) to express a position mean they have violated this law? Further, the bill singles out local governments (i.e.: cities, counties, school districts, etc) and does not extend this prohibition to state government. A state legislator may use state funds to advocate for a position, while a city council member may not.

Please exercise your constitutional authority as Governor to veto this unfair and poorly written legislation.

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2 An act relating to campaign financing; creating s.
3 106.113, F.S.; defining the terms "local government"
4 and "public funds"; prohibiting a local government
5 from expending, and a person or group from accepting,
6 public funds for a political advertisement or
7 electioneering communication concerning an issue,
8 referendum, or amendment that is subject to the vote
9 of the electors; providing an exception for certain
10 electioneering communications; clarifying restrictions
11 with respect to local officials; providing an
12 effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 106.113, Florida Statutes, is created to
17 read:

18 106.113 Expenditures by local governments.—

19 (1) As used in this section, the term:

20 (a) "Local government" means:

21 1. A county, municipality, school district, or other
22 political subdivision in this state; and

23 2. Any department, agency, board, bureau, district,
24 commission, authority, or similar body of a county,
25 municipality, school district, or other political subdivision of
26 this state.

27 (b) "Public funds" means all moneys under the jurisdiction
28 or control of the local government.

29 (2) A local government or a person acting on behalf of

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30 local government may not expend or authorize the expenditure of,
31 and a person or group may not accept, public funds for a
32 political advertisement or electioneering communication
33 concerning an issue, referendum, or amendment, including any
34 state question, that is subject to a vote of the electors. This
35 subsection does not apply to an electioneering communication
36 from a local government or a person acting on behalf of a local
37 government which is limited to factual information.

38 (3) With the exception of the prohibitions specified in
39 subsection (2), this section does not preclude an elected
40 official of the local government from expressing an opinion on
41 any issue at any time.

42 Section 2. This act shall take effect July 1, 2009.