

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB104)

Received: **01/27/2002**

Received By: **kuesejt**

Wanted: **Soon**

Identical to LRB:

For: **Kevin Shibilski (608) 266-3123**

By/Representing: **Todd Holschbach**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Addl. Drafters: **rmarchan**

Subject: **Elections - campaign finance**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

SA to SSA 1 to SB-104(Prior approval by elections board of issue-advocacy expenditures - 90-day window)

Instructions:

Per attached # 9.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 01/28/2002 rmarchan 01/28/2002	jdyer 01/29/2002		_____			
/1			haugeca 01/29/2002	_____	lrb_docadmin 01/29/2002	lrb_docadmin 01/29/2002	

FE Sent For:

<END>

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1? / 1	kuesejt 1/28		ck 1-29-02	ck 1-29-02			

FE Sent For:

<END>

Possible Amendments to SB 104

1. Require full registration, reporting and disclosure under 11.05 and 11.07 by any individual or group making disbursements for communications within 6 months of a primary or general election which includes the name or likeness of a candidate
2. Require full source disclosure under 11.30 on all communications within 6 months of a primary or general election which includes the name or likeness of a candidate
3. Redefine "political purpose" in 11.01(16) to include all communications within 6 months of an election that include the name or likeness of a candidate
4. Prohibit conduit contributions
5. Prohibit corporate-sponsored PACs
6. Prohibit corporations from spending any money for a communication including the name or likeness of a candidate within 6 months of a primary or general election
7. Prohibit all independent spending in the final 30 days before primary or general election
8. Impose a tax on all political contributions and independent spending that includes the name or likeness of a candidate, to be collected directly from the committees
9. Require Elections Board approval of all proposed communications including the name or likeness of a candidate in the final 90 days before a primary or general election, with a 3- or 5-day period for the impacted candidate to object to the communication
10. Prohibit contributions by non-resident individuals and organizations
11. Prohibit political contributions by lobbyists
12. Prohibit lobbyists from volunteering for a political campaign
13. Limit candidate contributions to their own campaigns to \$10,000
14. Prohibit personal campaign committees and political parties from receiving any contributions from PACs

2001

Date (time) needed

TUE 1/29/8:30AM

LRBa 1184, 1

AMENDMENT

D NOTES

JR + RJM:

See form AMENDMENTS — COMPONENTS & ITEMS.

(S) A AMENDMENT

TO ~~S~~ A AMENDMENT (LRBa 1)
TO (S) A SUBSTITUTE AMENDMENT (LRBs 1)
TO 2001 (SB) SJR SR AB AJR AR 104 (LRB 1)

At the locations indicated, amend the SUB and + as follows:
(fill ONLY if "engrossed ..." or "as shown by")

#. Page 7..., line 22: delete "independent" and substitute "Except as provided in s. 11.255, "independent" "

#. Page 32, line 17: after that line insert: "SECTION 67m, CR; 11.255 (B) 11.255 Prior approval of certain expenditures required."

(9)

(B)

(1) In this subsection,

#. Page..., line...:

#. Page..., line...:

#. Page..., line...:

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 104**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 7, line 22: delete “Independent” and substitute “Except as provided
3 in s. 11.38 (1m), “independent”.

4 **2.** Page 40, line 3: after that line insert:

5 “SECTION 91m. 11.38 (1m) of the statutes is created to read:

6 11.38 (1m) (a) In this subsection, “independent expenditure” means an

7 expenditure made for the purpose of making a communication that is made during

8 the ~~4-month~~ ^{beginning on the 90th day} period preceding any primary or other election; that contains the name

9 or likeness of a clearly identified candidate at that election; that is made without

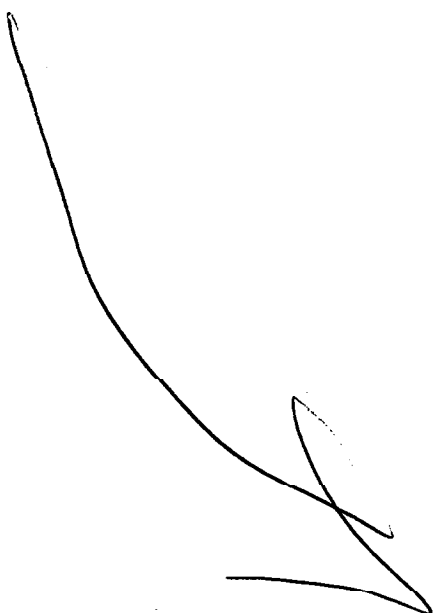
10 cooperation or consultation with such a candidate, or any authorized committee or

11 agent of such a candidate; and that is not made in concert with, or at the request or

1 suggestion of, such a candidate, or any authorized committee or agent of such a
2 candidate.

3 ~~(b) No foreign or domestic corporation, or association organized under ch. 185,~~
4 ~~may make any independent expenditure."~~

5 (END)



2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1184/lins
JTK & RJM:.....

(2) No person may make any independent expenditure unless the person first submits the proposed text of the communication to be financed by the expenditure to the board and the board approves the communication. Upon receipt of the text of a proposed communication under this subsection, the board shall transmit a copy of the communication to each individual who is a candidate for the office or offices contested at the election to which the communication relates. Any candidate who receives a copy of the communication may file written objections to the communication with the board within 3 days of the date of transmittal alleging that the proposed communication contains factual information that is false or grossly misleading. If the board finds that the proposed communication does not contain any factual information that is false or grossly misleading, it shall approve the proposed communication. Otherwise, the board shall disapprove the proposed communication and promptly transmit to the person who submitted it a statement of the board's objections."

(end of insert)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1183/1dn
JTK/RJM/JK:cjs:ch

January 28, 2002

date

cmh

Senator Shibilski:

1. The rate of the excise tax under this amendment (10%) is the same as provided in other similar proposals for campaign finance and lobbying expenditure taxes. If you would prefer a different rate, please let us know.

2. ~~Proposed subch. XIII of ch. 77, which imposes a tax on expenditures for certain political communications and on certain political contributions is an innovative provision, and we do not yet have, to our knowledge, specific guidance from the U.S. Supreme Court concerning the enforceability of a provision of this type. It is well possible that a court may find a rational basis for this provision that would permit it to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with this provision may occur.~~

s. 11.255, which requires prior approval by the elections board of certain political communications,

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1184/1dn
JTK&RJM:cmh:ch

January 29, 2002

Senator Shibilski:

Proposed s. 11.255, which requires prior approval by the elections board of certain political communications, is an innovative provision, and we do not yet have, to our knowledge, specific guidance from the U.S. Supreme Court concerning the enforceability of a provision of this type. It is possible that a court may find a rational basis for this provision that would permit it to be upheld. However, because of the concerns expressed by the U.S. Supreme Court in *Buckley v. Valeo, et al.*, 96 S. Ct. 612 (1976), and certain other cases that attempts to regulate campaign financing activities may, in some instances, impermissibly intrude upon freedom of speech or association, or equal protection guarantees, it is possible that enforceability problems with this provision may occur.

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