

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1021/1dn
JTK:lmk:jf

March 14, 2005

Representative Pope Roberts:

1. This draft is based upon North Carolina law. The North Carolina law requires any televised disclosures to be 32 scan lines in size. Federal law requires televised sponsor disclosures to be at least 4% of the vertical picture height. See 47 CFR 73.1212. Currently, analog television broadcasts use 525 scan lines, while HDTV broadcasts use between 720 and 1,080 scan lines. Although a 32-scan-line image constitutes at least 4% of the vertical picture height of an analog television broadcast, it does not constitute at least 4% of the vertical picture height of an HDTV broadcast. This draft uses the federal standard of 4% rather than the North Carolina standard of 32 scan lines, so that the draft remains consistent with the federal law as HDTV broadcasts become more prevalent. *See* proposed s. 11.30 (2m) (b) 2.

Also, the televised sponsor disclosure required under federal law must last at least 4 seconds. Do you want to include a similar requirement in this draft?

2. The definition of "print media" under proposed s. 11.01 (17) does not specifically include sample ballots, even though sample ballots in some cases are regulated as campaign advertisements under current law. *See* ss. 11.01 (4m) and 11.30 (2) (a), stats. Please let me know if you would like to make any change to the definition of "print media."

3. Several other provisions of current law are not incorporated into this draft and, thus, would be eliminated if this draft becomes law. Please review s. 11.30 (2) (d), (e), (g), (hm), and (i), stats., and let me know if you would like to preserve any of these provisions. Also, please note that current law, with certain exceptions, requires disclosure with every communication that is paid for by or through a contribution, disbursement, or incurred obligation. This draft only applies if the communications are made in print media [as defined in proposed s. 11.01 (17)] or on television or radio and the draft does not apply to communications relating to referenda. In these ways, the draft is narrower in scope than the current disclosure law under s. 11.30 (2), stats. Please let me know if the scope of this draft is inconsistent with your intent.

4. Finally, please note that many requirements under this draft are not uniform and, as a result, the requirements may raise an equal protection issue. For example, the content of the televised disclosures required under this draft is not uniform. Compare proposed s. 11.30 (2m) (d) 5. to proposed s. 11.30 (2m) (d) 1. to 4. Also, the full-screen

picture requirement under proposed s. 11.30 (2m) (d) 6. does not apply to persons required to disclose information under proposed s. 11.30 (2m) (d) 5. Furthermore, the content of the required radio disclosures is not uniform as compared with the content of the televised disclosure statements. Compare proposed s. 11.30 (2m) (d) 1. to 5. with proposed s. 11.30 (2m) (e). The rational basis for these differing treatments may not be clear. If there is no rational basis, then these differing treatments would be susceptible to challenge under the Equal Protection Clause. You may want to treat these disclosures uniformly, except where there is arguably a rational basis for doing otherwise.

Please feel free to contact me if you would like to discuss any of these items.

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