

Prohibiting public funding of candidate's campaigns

Number: PETITION

Date: January 13, 1997

The Honorable Gerald Kogan
Chief Justice, and
Justices of The Supreme Court
of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Kogan and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is my responsibility to petition this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On December 23, 1996, the Secretary of State submitted to this office an initiative petition seeking to amend the Florida Constitution to prohibit public funding of the political candidates' campaigns for Governor, Cabinet offices, Florida Senate and Florida House of Representatives. The full text of the proposed amendment states:

"BE IT ENACTED BY THE PEOPLE OF FLORIDA THAT:

1) Amendment of Article VI, Florida Constitution:

Article VI, Florida Constitution, is hereby amended by adding at the end thereof the following new section:

'Section 7. No Public Funding of Election Campaigns:

'(a) Public funds shall not be used for the financing of campaigns for elective State office.

'(b) For purposes of this section:

'(1) The phrase 'public funds' means funds from the State, including appropriated funds, trust funds, the Budget Stabilization Fund, or similar fiscal mechanisms of the State.

'(2) The term 'financing' means the payment of funds to campaigns, and does not include the use of funds for the administration or conduct of elections generally, or the reimbursement of funds or property erroneously paid to or taken by the State.

'(3) The term 'campaigns' means the activity of an individual as a candidate for election or of a candidate's campaign committee or organization.

'(4) The phrase 'elective State office' means the Governor, Lieutenant Governor, Cabinet offices, Florida Senate and Florida House of Representatives.'

2) Effective Date and Transition:

This amendment shall be effective on the date it is approved by the electorate. Funds remaining in trust funds or otherwise dedicated to uses abrogated under this amendment on such date shall be used first to satisfy any existing obligations under public campaign financing laws, and

then deposited into the general revenue fund.

3) Severability:

If any portion of this measure is held invalid for any reason, the remaining portion of this measure, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force and application."

The ballot title for the proposed amendment is "Prohibiting Public Funding of Political Candidates' Campaigns." The summary for the proposed amendment provides:

"Prohibits the payment of State funds to political candidates' campaigns for Governor, Lieutenant Governor, Cabinet offices, Florida Senate or Florida House of Representatives. The amendment will be effective upon passage. Upon passage, any funds remaining in public campaign financing accounts will be used to satisfy existing obligations, then treated as general revenue for the State."

BALLOT TITLE AND SUMMARY

Section 16.061, Florida Statutes, requires the Attorney General to petition this Honorable Court for an advisory opinion as to whether the proposed ballot title and summary comply with section 101.161, Florida Statutes.

Section 101.161, Florida Statutes, provides in relevant part:

"Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment or other public measure shall be printed in clear and unambiguous language on the ballot The substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of."

This Court has stated on several occasions "that the ballot [must] be fair and advise the voter sufficiently to enable him intelligently to cast his ballot." *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982), *quoting*, *Hill v. Milander*, 72 So. 2d 796, 798 (Fla. 1954). While the ballot title and summary must state in clear and unambiguous language the chief purpose of the measure, it need not explain every detail or ramification of the proposed amendment. *Carroll v. Firestone*, 497 So. 2d 1204, 1206 (Fla. 1986); *Advisory Opinion to the Attorney General--Limited Political Terms in Certain Elective Offices*, 592 So. 2d 225, 228 (Fla. 1991).

The chief purpose of this initiative is to prohibit state funds being used to fund the political candidacies of certain state officers. The ballot title and summary appear to clearly express the chief purpose of this proposed constitutional amendment. In addition, the ballot summary reflects the effective date of the proposed amendment and its provision for the distribution of funds existing in public financing accounts at the time the amendment becomes effective.

As the ballot title and summary advise the voters of the chief purpose of the proposed amendment, it appears to satisfy the requirements of section 101.161, Florida Statutes.

I respectfully request this Honorable Court's opinion as to whether the ballot title and summary of the constitutional amendment, proposed by initiative petition, comply with section 101.161, Florida Statutes.

SINGLE SUBJECT LIMITATION

Section 16.061, Florida Statutes, requires the Attorney General, within 30 days after receipt of the proposed amendment to the Florida Constitution by citizens' initiative, to petition this Honorable Court for an advisory opinion as to whether the text of the proposed amendment complies with Article XI, section 3, Florida Constitution.

Article XI, section 3, Florida Constitution, provides in relevant part:

"The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith."

This Court stated in *Advisory Opinion to the Attorney General--Restricts Laws Related to Discrimination*, 632 So. 2d 1018, 1020 (Fla. 1994), that "[t]o ascertain whether the necessary 'oneness of purpose' exists, we must consider whether the proposal affects separate functions of government and how the proposal affects other provisions of the constitution." The proposed amendment affects both executive and legislative offices. This does not, however, invalidate the proposed amendment. As this Court in *Advisory Opinion to Attorney General--Limited Political Terms in Certain Political Offices*, 592 So. 2d 225, 227 (Fla. 1991), stated in upholding an initiative petition that imposed term limits on certain elected public officers:

Although the proposed amendment affects officeholders in three different branches of government, that fact alone is not sufficient to invalidate the proposed amendment. We have found proposed amendments to meet the single-subject requirement even though they affected multiple branches of government.

Thus, the proposed amendment does not appear violative of the single subject requirement.

Therefore, I respectfully request this Honorable Court's opinion as to whether the constitutional amendment, proposed by initiative petition, complies with Article XI, section 3, Florida Constitution.

Respectfully submitted,

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RAB/tgk

Enclosures

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