

  
*Colorado Legislative Council Staff Fiscal Note*  
**STATE**  
**FISCAL IMPACT**

**Drafting Number:** LLS 10-0639  
**Prime Sponsor(s):** Sen. Cadman

**Date:** February 8, 2010  
**Bill Status:** Senate SVMA  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**TITLE:** CONCERNING A PROHIBITION ON THE EXPENDITURE OF STATE MONEYS TO DISSEMINATE INFORMATION IN THE MASS MEDIA THAT FEATURES SPECIFIED ELECTED STATE OFFICIALS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
<b>State Revenue</b>		
Cash Funds		
Department of State Cash Fund	<\$5,000	
<b>State Expenditures</b>	Potential increase.	
Various Fund Sources	See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Effective Date:</b> July 1, 2010.		
<b>Appropriation Summary for FY 2010-2011:</b> None required.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

The bill prohibits elected state officials and their employees from spending public money on any print or visual media announcement, broadcast, website, or similar type of public communication that refers to the elected official or his or her employees by name or likeness. A person alleging a violation of this prohibition may file a complaint with the Secretary of State. If an elected official or employee is found in violation of this prohibition, he or she is personally liable for a civil penalty between 2 and 5 times the amount of the expenditure in question. The bill makes the following exceptions:

- one annual information publication that lists the elected official, employees, and contact information;
- any announcement or communication required by law; and
- broadcasts and records of public meetings and other official proceedings.

The bill applies to the following elected officials: Governor, Lieutenant Governor, Secretary of State, State Treasurer, Attorney General, members of the General Assembly, members of the State Board of Education, and members of the Board of Regents of the University of Colorado.

## **State Revenue**

The bill could result in civil penalties paid to the Department of State Cash fund by elected officials and employees who inappropriately use state funds to broadcast their image or likeness. However, this analysis assumes that elected officials will comply with the bill and that a minimal amount of revenue, less than \$5,000, will be generated. This assumption aside, even a small number of violations could generate significant revenue. Penalty revenue for a violation depends on the amount of public funds spent inappropriately and the penalty factor imposed (between 2 and 5 times the amount spent). These amounts cannot be estimated at this time.

## **State Expenditures**

The bill could increase costs in two areas - increased administrative law judge caseload and modifications to agency websites, documents, and other types of communications. These costs are discussed below.

***Administrative Law Judges.*** If a person files a complaint to the Secretary of State about an elected official using public funds to broadcast his or her image, the complaint is handled under the procedures of the Fair Campaign Practices Act, and could result in a case being referred to an administrative law judge (ALJ) in the Department of Personnel and Administration. Although this analysis assumes a high level of compliance, it could result in an unspecified number of new cases for ALJs. It is assumed that if caseload increases to a point where a additional ALJs are required, these costs would be addressed through the annual budget process.

***Document Modification.*** This bill could increase costs to state agencies, the General Assembly, and other affected institutions to modify websites, documents, and other communications to remove images of elected officials to comply with the bill. Because the bill prohibits the expenditure of public funds to publish images and references of elected officials, this analysis assumes that existing documents that have already been paid for will not need to be modified or reprinted. New documents and communications can be made in compliance with the bill at no additional cost.

Some forms of communication, such as websites, "on-hold" phone announcements from elected officials, and other media that are continually broadcast or published will require modification. This analysis assumes that existing staff and resources can be used to accomplish these tasks. However, there could be other types of existing broadcasts, documents, and communications not accounted for in this analysis which may require modification. If any agency or department incurs such costs, it is assumed these costs can be addressed through the annual budget process.

*Media costs.* This analysis assumes that state agencies will continue to broadcast and publish advertisements, announcements, websites, and other communications covered by the bill at the same rate as under current law. These broadcasts and communications will be made in a way that comply with the bill by omitting references to and images of the elected official.

**Departments Contacted**

Education  
Governor's Office  
Higher Education  
Law  
Legislative Council  
State  
Treasury