

**STATE
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 1, 2011)

Drafting Number: LLS 11-0268
Prime Sponsor(s): Rep. Balmer
 Sen. Cadman

Date: March 21, 2011
Bill Status: Senate SVMA
Fiscal Analyst: Bill Zepernick (303-866-4777)

TITLE: CONCERNING RESTRICTIONS ON THE APPEARANCE BY PUBLIC OFFICIALS IN COMMUNICATIONS PAID FOR WITH STATE MONEYS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue Cash Funds Department of State Cash Fund	Potential fine revenue. See State Revenue section	
State Expenditures Multiple Fund Sources	Potential increase. See State Expenditures section.	
FTE Position Change		
Effective Date: July 1, 2011.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: None.		

Summary of Legislation

The bill prohibits the use of state funds to pay for advertisements containing the name or likeness of certain elected state officials. Covered elected officials include the governor, lieutenant governor, secretary of state, state treasurer, attorney general, and members of the General Assembly.

Exceptions to this prohibition are made for the following forms of public communication:

- advertisements required by law in order for the official to conduct his or her official duties;
- communication through official state web sites;
- email communications disseminated by an elected official;
- advertising and conducting town hall meetings;
- mail distributed by the U.S. Postal Service; and
- interactions by an elected official on a social media website.

A person alleging a violation may file a complaint with the Department of State. An elected official found to have willfully and intentionally violated the provisions of this bill shall be personally liable for a fine of \$20,000, or between 2 and 5 times the amount of the expenditure in question, whichever is greater. An elected official shall not be subject to this civil penalty as a result of the actions of a subordinate employee, unless the supervising official knew or should have known that the person was committing a violation.

State Revenue

The bill could result in an increase in civil penalties paid to the Department of State Cash Fund beginning in FY 2011-12 from elected officials who inappropriately use state funds to include their name or likeness in prohibited advertisements. However, this analysis assumes that elected officials will comply with the bill and penalty revenue is unlikely to be generated. At the same time, even a small number of violations could generate significant revenue. Penalties for a violation depend on the amount of public funds spent inappropriately and the penalty factor imposed (between 2 and 5 times the amount spent), with a minimum penalty of \$20,000. The exact amount of fine revenue cannot be estimated at this time.

State Expenditures

The bill could increase costs for administrative law judge services, but any impact is assumed to be minimal. If a person files a complaint with the Department of State under this bill, the complaint could result in cases 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 additional ALJs are required, these costs would be addressed through the annual budget process. The bill is not expected to have any effect on state spending for advertisements and public communication.

Departments Contacted

Education	Governor's Office	Higher Education
Law	State	Legislative Council
Personnel and Administration	Treasury	