

Senate File 2381 - Introduced

SENATE FILE 2381
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 3188)

A BILL FOR

1 An Act relating to the expenditure of public funds and funds
2 held in trust by statewide elected officials, members of the
3 general assembly, or local officials on certain forms of
4 advertisement and imposing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 68A.405A Advertising expenditures
2 prior to elections prohibited.

3 1. For the purposes of this section:

4 a. "*Designated communication*" means a public advertisement
5 or promotion delivered through a paid direct mailing, a paid
6 radio communication, or a paid television communication funded
7 in whole or in part with public moneys or moneys held in a
8 private trust fund as defined by section 8.2, or a trust
9 fund controlled by a political subdivision of the state, if
10 such paid direct mailing, paid radio communication, or paid
11 television communication bears the written name, likeness, or
12 voice of a statewide elected official, a member of the general
13 assembly, or a local official. "*Designated communication*" does
14 not mean any of the following:

15 (1) A report, record, letter, memorandum, document,
16 envelope, cover sheet, certificate, constituent correspondence,
17 routine ministerial material, or ceremonial material bearing
18 the name, official logo, or official letterhead of the office
19 of a statewide elected official, a member of the general
20 assembly, or local official, provided that such report,
21 record, letter, memorandum, document, envelope, cover sheet,
22 certificate, routine ministerial material, or ceremonial
23 material is used or generated in the course of the statewide
24 elected official's, member of the general assembly's, or local
25 official's duties.

26 (2) A depiction of the great seal of the state of Iowa
27 through any medium when such depiction has been approved by the
28 office of the governor.

29 (3) Official press releases or press advisories issued by
30 the office of a statewide elected official, a member of the
31 general assembly, or a local official in any form.

32 (4) A publication, literature, or other medium of
33 communication designed to further the purposes of section
34 29C.3.

35 (5) A payment made by the office of a statewide elected

1 official, the general assembly, or a local official to the
2 management of a fair in order to reserve a physical floor space
3 at a fairground or grounds as defined by section 174.1 for use
4 by the statewide elected official, the general assembly, or
5 the local official for a booth or display at a fair event as
6 defined in section 174.1.

7 *b. "Designated exhibit expenditure"* means a billboard,
8 placard, banner, table skirt, sign, display, or other physical
9 structure in excess of one hundred fifty square inches funded
10 in whole or in part with public moneys or moneys held in a
11 private trust fund as defined in section 8.2, or a trust fund
12 controlled by a political subdivision of the state, and placed
13 or displayed within or upon a defined physical booth space
14 located at a fairground or grounds as defined in section 174.1
15 bearing the written name, likeness, or voice of a statewide
16 elected official, a member of the general assembly, or a local
17 official. *"Designated exhibit expenditure"* does not mean any
18 of the following:

19 (1) A report, record, letter, memorandum, document,
20 envelope, cover sheet, certificate, constituent correspondence,
21 routine ministerial material, or ceremonial material bearing
22 the name, official logo, or official letterhead of the office
23 of a statewide elected official, a member of the general
24 assembly, or local official, provided that such report,
25 record, letter, memorandum, document, envelope, cover sheet,
26 certificate, routine ministerial material, or ceremonial
27 material is used or generated in the course of the statewide
28 elected official's, member of the general assembly's, or local
29 official's duties.

30 (2) A depiction of the great seal of the state of Iowa
31 through any medium when such depiction has been approved by the
32 office of the governor.

33 (3) Official press releases or press advisories issued by
34 the office of a statewide elected official, a member of the
35 general assembly, or a local official in any form.

1 (4) A publication, literature, or other medium of
2 communication designed to further the purposes of section
3 29C.3.

4 (5) A payment made by the office of a statewide elected
5 official, the general assembly, or a local official to the
6 management of a fair in order to reserve a physical floor space
7 at a fairground or grounds as defined by section 174.1 for use
8 by the statewide elected official, the general assembly, or
9 the local official for a booth or display at a fair event as
10 defined in section 174.1.

11 c. "*Local official*" means the same as defined in section
12 68B.2.

13 d. "*Statewide elected official*" means the same as defined
14 in section 68B.2.

15 2. A statewide elected official, a member of the general
16 assembly, or a local official shall not make or authorize a
17 designated communication or designated exhibit expenditure to
18 be made within thirty days before a general election.

19 3. A statewide elected official, member of the general
20 assembly, or local official who makes or authorizes a
21 designated communication or designated exhibit expenditure to
22 be made more than thirty days before a general election shall
23 clearly affix to the designated communication or designated
24 exhibit expenditure an attribution statement disclosing the
25 source of the public moneys or moneys held in trust used to
26 pay for the designated communication or designated exhibit
27 expenditure. An attribution statement is not required to be
28 affixed to a designated communication or designated exhibit
29 expenditure made using a medium substantially similar to those
30 listed in section 68A.405, subsection 2.

31 4. An attribution statement required by subsection 3 shall
32 be displayed or transmitted as follows:

33 a. For a designated communication in the form of a paid
34 direct mailing, the attribution statement shall be printed on
35 the paid direct mailing and shall include the words "paid for

1 by" followed by the exact source of the public moneys or moneys
2 held in trust so used to pay for the designated communication
3 in question.

4 *b.* For a designated communication in the form of a paid
5 radio communication, the attribution statement shall be stated
6 clearly and in an understandable manner easily ascertainable by
7 the listener of such paid radio communication and shall include
8 the words "paid for by" followed by the exact source of the
9 public moneys or moneys held in trust so used to pay for the
10 designated communication.

11 *c.* For a designated communication in the form of a paid
12 television communication, the attribution statement shall
13 include the words "paid for by" followed by the exact source
14 of the public moneys or moneys held in trust so used to pay for
15 the designated communication. Such attribution statement shall
16 be displayed on the screen in a clearly readable manner for at
17 least four seconds.

18 *d.* For a designated exhibit expenditure requiring an
19 attribution statement, the attribution statement shall be
20 printed on the billboard, placard, banner, table skirt,
21 sign, display, or other physical structure and shall include
22 the words "paid for by" followed by the exact source of the
23 public moneys or moneys held in trust so used to pay for the
24 designated exhibit expenditure.

25 5. A person who willfully violates this section shall be
26 subject to a civil penalty of an amount up to the amount of
27 moneys withdrawn from a public account, private trust fund
28 as defined in section 8.2, or trust fund controlled by a
29 political subdivision of the state used to fund the designated
30 communication or designated exhibit expenditure found to be in
31 violation of this section by the board. Such penalty shall be
32 determined and assessed by the board and paid into the account
33 from which such moneys were withdrawn. Additional criminal or
34 civil penalties available under section 68A.701 or established
35 by the board pursuant to section 68B.32A may also be determined

1 and assessed by the board for violations of this section.

2 6. This section shall not apply to any physically printed or
3 electronically printed, published, or disseminated materials or
4 literature generated by a statewide elected official, member of
5 the general assembly, or local official prior to the effective
6 date of this Act.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill prohibits a statewide elected official, defined
11 as the governor, lieutenant governor, secretary of state,
12 treasurer of state, auditor of state, attorney general, or
13 secretary of agriculture; member of the general assembly; or
14 local official from expending public moneys or moneys held in
15 a trust controlled by the state or a political subdivision on
16 designated communications or designated exhibit expenditures
17 within 30 days before a general election. The bill defines
18 designated communication as a public advertisement or
19 promotion delivered through a paid direct mailing, a paid radio
20 communication, or a paid television communication if such
21 advertisement or promotion bears the written name, likeness, or
22 voice of a statewide elected official, member of the general
23 assembly, or local official. The bill defines designated
24 exhibit expenditure as a billboard, placard, banner, table
25 skirt, sign, display, or other physical structure in excess
26 of 150 square inches placed or displayed within or upon a
27 defined physical booth space located at a fairground or grounds
28 as defined in Code section 174.1 bearing the written name,
29 likeness, or voice of a statewide elected official, member of
30 the general assembly, or local official.

31 The bill excludes from the definitions of designated
32 communication and designated exhibit expenditure all of the
33 following: a report, record, letter, memorandum, document,
34 envelope, cover sheet, certificate, constituent correspondence,
35 routine ministerial material, or ceremonial material bearing

1 the name, official logo, or official letterhead of the office
2 of a statewide elected official, a member of the general
3 assembly, or local official, provided that such report,
4 record, letter, memorandum, document, envelope, cover sheet,
5 certificate, routine ministerial material, or ceremonial
6 material is used or generated in the course of the statewide
7 elected official's, member of the general assembly's, or
8 local official's duties; a depiction of the great seal of the
9 state of Iowa through any medium when such depiction has been
10 approved by the office of the governor; official press releases
11 or press advisories issued by the office of a statewide elected
12 official, a member of the general assembly, or a local official
13 in any form; a publication, literature, or other medium of
14 communication related to a proclamation of a state of public
15 disorder by the governor; and a payment made by the office of a
16 statewide elected official, the general assembly, or a local
17 official to the management of a fair in order to reserve a
18 physical floor space at a fairground or grounds for use by the
19 statewide elected official, the general assembly, or the local
20 official for a booth or display at a fair event.

21 The bill requires any designated communication or designated
22 exhibit expenditure made more than 30 days before a general
23 election to include an attribution statement disclosing
24 the source of the moneys used to pay for the designated
25 communication or designated exhibit expenditure, unless the
26 designated communication or designated exhibit expenditure uses
27 a medium substantially similar to those found in Code section
28 68A.405.

29 A person who willfully violates the bill shall be subject
30 to a civil penalty of an amount up to the amount of moneys
31 withdrawn from a public account, private trust fund as
32 defined in Code section 8.2, or trust fund controlled by a
33 political subdivision of the state used to fund the designated
34 communication or designated exhibit expenditure as found by
35 the board. Such penalty shall be determined and assessed by

1 the board and paid into the account from which such moneys
2 were withdrawn. Any additional criminal or civil penalties
3 available under Code section 68A.701 or established by the
4 board pursuant to Code section 68B.32A may also be determined
5 and assessed by the board for violations of the bill.

6 The bill does not apply to any physically printed or
7 electronically printed, published, or disseminated materials or
8 literature generated by a statewide elected official, member of
9 the general assembly, or local official prior to the effective
10 date of the bill.