

## STATE OF FLORIDA

**ASHLEY MOODY  
ATTORNEY GENERAL**

September 23, 2020

Mr. Michael F. McPherson  
Special Agent in Charge  
Federal Bureau of Investigation  
5525 West Gray Street  
Tampa, FL 33609

Mr. Richard L. Swearingen  
Commissioner  
Florida Department of Law Enforcement  
P.O. Box 1489  
Tallahassee, FL 32302-1489

Dear Commissioner Swearingen and Special Agent in Charge McPherson:

Governor DeSantis has asked that my office review recent allegations found in the enclosed September 22, 2020 *Washington Post* article and relevant law. My office has reviewed the following enclosed materials:

- *Washington Post* article, "Mike Bloomberg raises \$16 million to allow former felons to vote in Florida";
- Florida Not-for-Profit Corporation Annual Report of Florida Rights Restoration Coalition, Inc., dated June 23, 2020;
- Section 104.012, Florida Statutes;
- Section 104.061, Florida Statutes;
- Florida Department of State, Division of Elections, Advisory Opinion 16-02 "Voting-Offering Incentives to Vote; Political Committees Expenditures; §§ 104.045, 104.061, 104.0616, 106.011, and 106.11, Florida Statutes" (hereinafter "DE 16-02");
- Title 18, United States Code, Section 597; and
- Title 52, United States Code, Section 10307.

In DE 16-02, the Florida Department of State, Division of Elections, in responding to an inquiry by a political committee, stated:

Even otherwise innocuous offering of an incentive simply to vote could run afoul of section 104.045 or section 104.061, or both, depending upon the circumstances involved. That is, incentives could be offered to a voter in a way that would be designed to directly or indirectly cause the voter or a larger group of voters to vote in a particular manner. In such a case, the person giving the incentive could be guilty of violating section 104.061, Florida Statutes, which makes it illegal to "directly or indirectly give or promise anything of value to another in casting his or her vote."

DE 16-02, at 3 (footnote and citation omitted).

After preliminarily reviewing this limited public information and law, it appears further investigation is warranted. Accordingly, I request that your agencies further investigate this matter and take appropriate steps as merited.

Sincerely,



Ashley Moody  
Attorney General

cc: Mrs. Maria Chapa Lopez, United States Attorney  
Mr. Nick Cox, Statewide Prosecutor

**The Washington Post**

*Democracy Dies in Darkness*

# Mike Bloomberg raises \$16 million to allow former felons to vote in Florida

By **Michael Scherer**

September 22, 2020 at 10:30 a.m. EDT

Former New York mayor Mike Bloomberg and his team have raised more than \$16 million to pay the court fines and fees of nearly 32,000 Black and Hispanic Florida voters with felony convictions, an effort aimed at boosting turnout for Democratic presidential candidate Joe Biden.

The money will fund a program organized by the Florida Rights Restoration Coalition to pay the fines, fees and restitution costs for former prisoners who are already registered to vote in Florida but barred by law from participating in the election because of those outstanding debts.

Bloomberg, who has committed at least \$100 million to electing Biden in the state, raised the money from individuals and foundations over the past week, his advisers said. He saw the donations as a more cost-effective way of adding votes to the Democratic column than investing money to persuade voters who already have the right to vote, a Bloomberg memo said.

"We have identified a significant vote share that requires a nominal investment," the memo read. "The data shows that in Florida, Black voters are a unique universe unlike any other voting bloc, where the Democratic support rate tends to be 90%-95%."

The memo noted that Biden was polling worse among Cuban American voters than Hillary Clinton, the 2016 nominee, while winning other Hispanic groups by a margin of 3 to 1.

The Florida Rights Restoration Coalition is a nonpartisan group that has been fundraising to return all former felons in the state to the voting rolls. Desmond Meade, the group's president, said the group does not share Bloomberg's goal of empowering only one political side in the upcoming election.



"Different people may give for different reasons, but we are in this for one reason, and that reason is to place people over politics," Meade said. "We are concerned with people from all walks of life, from all sorts of politics."

He said that through separate efforts, his organization has raised about \$7 million from about 44,000 donors to help pay the debts of citizens with felony convictions so they can return to the voting rolls. The average debt, the group said, is about \$1,000.

After organizing by Meade's group, Florida voters passed a statewide constitutional amendment in 2018 that gave former felons, except those convicted of murder or felony sexual offenses, the opportunity to vote in upcoming elections. The Republican-controlled legislature subsequently passed, and the Republican governor signed, a law that conditioned their return to the voting rolls on the payment of all fees, fines and restitution that were part of their sentence.

Subsequent court challenges upheld the power of the legislature to condition voting rights on the payment of debts by former felons. Judge Barbara Lagoa, who is under consideration by President Trump as a possible replacement for Supreme Court justice Ruth Bader Ginsburg, cast a concurring opinion on the 11th Circuit Court of Appeals upholding the state law requiring payment of debts.

The Republican effort is expected to limit what some viewed as a political benefit to Democrats of the constitutional change, which passed by ballot initiative with 65 percent support. A study by the University of Florida found that nearly 775,000 former felons still owed money related to their convictions and would be barred from the voting booth by the law. The vast majority are too poor to pay their outstanding debts, according to evidence presented in court documents challenging the law.

Several philanthropic groups, including a nonprofit founded by the professional basketball player LeBron James, have since committed donations to pay the owed money. The Bloomberg effort, which his aides said will be pooled with about \$5 million already raised by the Florida Rights Restoration Coalition, is narrowly focused only on Black and Hispanic voters who are already registered to vote and whose debts are less than \$1,500.

Bloomberg's advisers identified that group as both likely to vote for Biden and more likely to vote than other groups of former felons.

"Mike wanted to get this done for two reasons," said a Bloomberg adviser, who spoke on the condition of anonymity to discuss private conversations. "One, because it's the right thing to do for the democracy. And two, because it immediately activates tens of thousands of voters who are predisposed to vote for Joe Biden."



Bloomberg aides said the former New York mayor, who is worth more than \$50 billion, had raised the money for this effort from others and that the sum would not count against the \$100 million or more he has personally committed to spend on behalf of Biden in the state.

The Bloomberg memo pointed out that the 31,790 targeted voters, including 25,548 who are Black, are nearly equivalent to the margin by which Gov. Ron DeSantis (R) won election in 2018, and about three times as big as the margin that elected Sen. Rick Scott (R-Fla.) that same year.

It said Florida voters have largely already made up their minds about the November election, leaving “only a small margin of voters that are targets for persuasion.”

“We know to win Florida we will need to persuade, motivate and add new votes to the Biden column,” the document read. “This means we need to explore all avenues for finding the needed votes when so many votes are already determined.”

Meade said his group would be in charge of spending the money raised by Bloomberg and will continue fundraising to enfranchise more Floridians with felony convictions.

“No person really dictates how we are operating,” he said.

Updated September 22, 2020

## Election 2020: What to know

**Live updates:** Get the latest on the election and Supreme Court.

**Polling** from The Washington Post and ABC News shows former vice president Joe Biden with a narrow edge in the key battleground state of Wisconsin and a wide lead in Minnesota.

**How to vote:** Find out the rules in your state. Some states have already started sending out mail ballots; see how to make sure yours counts. Absentee and mail ballots are two terms for the same thing, mostly used interchangeably. Barring a landslide, we may not have a result in the presidential election on Nov. 3.

**Electoral college map:** Who actually votes, and who do they vote for? Explore how shifts in turnout and voting patterns for key demographic groups could affect the presidential race.

**Policy:** Where Biden and Trump stand on key issues defining the election.

**Battlegrounds:** Want to understand the swing states? Read about Michigan, Wisconsin, North Carolina, Florida, Pennsylvania and Minnesota, and sign up for The Trailer and get more states, plus more news and insight from the trail, in your inbox three days a week.

**Coming up:** Trump and Biden are scheduled to debate three times this fall; here's what to know about the 2020 presidential debates.

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**2020 FLORIDA NOT FOR PROFIT CORPORATION ANNUAL REPORT**

DOCUMENT# N11000011745

**Entity Name:** FLORIDA RIGHTS RESTORATION COALITION, INC.

**Current Principal Place of Business:**

4081 LB MCLEOD RD,  
UNIT C  
ORLANDO, FL 32811

**Current Mailing Address:**

4081 LB MCLEOD RD,  
UNIT C  
ORLANDO, FL 32811 US

**FEI Number:** 30-0714793

**Certificate of Status Desired:** No

**Name and Address of Current Registered Agent:**

MEADE, DESMOND  
4081 LB MCLEOD RD  
UNIT C  
ORLANDO, FL 32811 US

*The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.*

**SIGNATURE:**

\_\_\_\_\_  
Electronic Signature of Registered Agent

\_\_\_\_\_  
Date

**Officer/Director Detail :**

Title P  
Name MEADE, DESMOND B  
Address P.O.BOX 555809  
City-State-Zip: ORLANDO FL 32855

Title VP  
Name YOUNTS, JESSICA  
Address 4081 LB MCLEOD RD  
City-State-Zip: ORLANDO FL 32811

Title SECRETARY  
Name NEIL, VOLZ  
Address 4081 LB MCLEOD RD  
City-State-Zip: ORLANDO FL 32811

Title TREASURER  
Name ORLANDO, MICHAEL J  
Address PO BOX 203  
City-State-Zip: MIMS FL 32754

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 617, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

**SIGNATURE:** DESMOND MEADE

**PRESIDENT**

**06/23/2020**

\_\_\_\_\_  
Electronic Signature of Signing Officer/Director Detail

\_\_\_\_\_  
Date



Select Year: 2019 

## The 2019 Florida Statutes

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[Title IX](#)[Chapter 104](#)[View Entire Chapter](#)**ELECTORS AND ELECTIONS ELECTION CODE: VIOLATIONS; PENALTIES****104.012 Consideration for registration; interference with registration; soliciting registrations for compensation; alteration of registration application.—**

(1) Any person who gives anything of value that is redeemable in cash to any person in consideration for his or her becoming a registered voter commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). This section shall not be interpreted, however, to exclude such services as transportation to the place of registration or baby-sitting in connection with the absence of an elector from home for registering.

(2) A person who by bribery, menace, threat, or other corruption, directly or indirectly, influences, deceives, or deters or attempts to influence, deceive, or deter any person in the free exercise of that person's right to register to vote at any time, upon the first conviction, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), and, upon any subsequent conviction, commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(3) A person may not solicit or pay another person to solicit voter registrations for compensation that is based upon the number of registrations obtained. A person who violates the provisions of this subsection commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(4) A person who alters the voter registration application of any other person, without the other person's knowledge and consent, commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

**History.**—s. 1, ch. 63-198; s. 20, ch. 71-136; s. 33, ch. 77-175; s. 39, ch. 94-224; s. 1394, ch. 95-147; s. 32, ch. 97-13; s. 23, ch. 98-129.

Select Year: 2019 

## The 2019 Florida Statutes

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[Title IX](#) [Chapter 104](#) [View Entire Chapter](#)  
ELECTORS AND ELECTIONS ELECTION CODE: VIOLATIONS; PENALTIES

**104.061 Corruptly influencing voting.—**

(1) Whoever by bribery, menace, threat, or other corruption whatsoever, either directly or indirectly, attempts to influence, deceive, or deter any elector in voting or interferes with him or her in the free exercise of the elector's right to vote at any election commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#) for the first conviction, and a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#), for any subsequent conviction.

(2) No person shall directly or indirectly give or promise anything of value to another intending thereby to buy that person's or another's vote or to corruptly influence that person or another in casting his or her vote. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). However, this subsection shall not apply to the serving of food to be consumed at a political rally or meeting or to any item of nominal value which is used as a political advertisement, including a campaign message designed to be worn by a person.

**History.**—ss. 1, 3, ch. 6470, 1913; RGS 5918; CGL 8182; s. 1, ch. 19617, 1939; s. 1, ch. 20934, 1941; s. 7, ch. 22858, 1945; s. 8, ch. 26870, 1951; s. 1, ch. 65-379; s. 25, ch. 71-136; s. 35, ch. 77-175; s. 51, ch. 79-400; s. 21, ch. 81-304; s. 22, ch. 90-315; s. 616, ch. 95-147; s. 29, ch. 98-129.

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**FYI**

## FLORIDA DEPARTMENT of STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

January 21, 2016

Mr. Leonard Schmiede, Chairman  
League of Voters, Extraordinaire  
3024 25th Avenue North  
St. Petersburg, Florida 33713

Re: DE 16-02 Voting – Offering Incentives  
to Vote; Political Committees –  
Expenditures; §§ 104.045, 104.061,  
104.0616, 106.011, and 106.11, Florida  
Statutes

Dear Mr. Schmiede:

You are the chairman of a Florida political committee and ask whether your political committee may legally pay electors to vote, among other related questions. The Division of Elections has the authority to issue you an advisory opinion pursuant to section 106.23(2), Florida Statutes.

### FACTS

Your political committee proposes to increase voter turnout by offering cash, checks, or gift cards to persons in return for “completing the act of voting,” for “request[ing] to vote by mail,” or for convincing others to vote in person or by mail. You emphasize that the incentives your political committee proposes would only be to encourage others simply to vote, not to vote in a particular manner or for a particular candidate.

### ANALYSIS

Florida law explicitly prohibits “vote-buying” and “vote-selling.” The prohibition against “vote-buying” is found in section 104.061(2), Florida Statutes, and reads as follows:

No person shall directly or indirectly give or promise anything of value to another intending thereby to buy that person’s or another’s vote or to

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corruptly influence that person or another in casting his or her vote. Any person who violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. However, this subsection shall not apply to the serving of food to be consumed at a political rally or meeting or to any item of nominal value which is used as a political advertisement, including a campaign message designed to be worn by a person.

§ 104.061(2), Fla. Stat.

The prohibition against “vote-selling” is found in section 104.045, which reads as follows:

Any person who:

- (1) Corruptly offers to vote for or against, or to refrain from voting for or against, any candidate in any election in return for pecuniary or other benefit; or
- (2) Accepts a pecuniary or other benefit in exchange for a promise to vote for or against, or to refrain from voting for or against, any candidate in any election,

is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

§ 104.045, Fla. Stat.

Together, these two provisions make it illegal to pay a person to vote in a particular manner (in other words, to “vote-buy”), or to agree to vote or refrain from voting for or against a particular candidate in exchange for a “pecuniary or other benefit” (in other words, to “vote-sell”). Both of these provisions contemplate that the incentive offered must be connected to a vote that is cast *in a particular manner* (or, as the case may be, a vote that is *not* cast in a particular manner).

To support your political committee’s proposed incentives for voting, you cite to advisory opinion DE 87-08. In questions two and three of DE 87-08, the Division was asked whether it was permissible for a person to give an elector a gift certificate, paraphernalia, or other consideration not redeemable in cash, prior to or subsequent to the casting of the vote. *See Div. of Elections Op. 87-08* (Aug. 3, 1987). In answering both questions in the affirmative, the Division considered sections 104.045 and 104.061, Florida Statutes.<sup>1</sup> The Division concluded that section 104.045 does not prohibit a person from giving an elector “a gift certificate or other consideration if the consideration is not intended to buy or corruptly influence another’s vote,” apparently because that

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<sup>1</sup> At the time the 1987 opinion was rendered, section 104.045 provided that “vote-selling” was a misdemeanor. Current Florida law makes “vote-selling” a felony. *See* § 104.045, Fla. Stat. (1987); § 104.045, Fla. Stat. (2015).

section contemplates the situation where a person is attempting to actually “buy” a person’s vote—that is, where the person offers the elector something of value in exchange for the elector’s promise to vote for or against a particular candidate. DE 87-08 further interpreted section 104.045 to prohibit a person from offering something of value to an elector in exchange for the elector’s promise to vote in a particular manner. The Division also noted that the “vote-buying” provisions of section 104.061(2), Florida Statutes, would not prohibit a candidate’s giving an item of value to a voter as long as the candidate was not attempting to “buy [the] person’s vote.” See *Div. of Elections Op. 87-08* (Aug. 3, 1987) (citing to *Div. of Elections Op. 83-7* (Apr. 22, 1983)).<sup>2</sup>

Consistent with sections 104.045 and 104.061, and DE 87-08, the Division reiterates that it is illegal to buy votes or sell votes, regardless of whether the “buying” or “selling” is accomplished by cash, check, gift card, gift, or other item of value. Even the otherwise innocuous offering of an incentive simply to vote could run afoul of section 104.045 or section 104.061, or both, depending on the particular circumstances involved. That is, incentives could be offered to a voter in a way that would be designed to directly or indirectly cause the voter or a larger group of voters to vote in a particular manner.<sup>3</sup> In such a case, the person giving the incentive could be guilty of violating section 104.061, Florida Statutes, which makes it illegal to “directly or indirectly give or promise anything of value to another intending thereby to buy that person’s or another’s vote or to corruptly influence that person or another in casting his or her vote.” § 104.061(2), Fla. Stat. Similarly, in such a situation the voter could run afoul of the prohibition against “vote-selling” in section 104.045. Put a different way, incentives to a voter to cast a vote may not legally be offered in a manner that attempts to circumvent the prohibitions against “vote-buying” and “vote-selling” contained in sections 104.061 and 104.045.

In light of these proscriptions against “vote-buying” and “vote-selling,” your political committee could not legally pay an elector to vote and have that expenditure be a valid one under chapter 106. A political committee may only make expenditures. See § 106.11(1)(a), Fla. Stat. (limiting political committee primary depository to use “only for the purpose of depositing contributions and making expenditures”). “Expenditures,” by statutory definition, must only be made “for the purpose of influencing the results of an election.” § 106.011(10)(a), Fla. Stat. For

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<sup>2</sup> It should be noted that section 104.061(2), Florida Statutes, has undergone some revision since 1987.

<sup>3</sup> A non-exhaustive list of examples where the person offering incentives to voters simply to vote could run afoul of sections 104.045 and 104.061 include the following: (1) incentives to vote might be offered to a group of people known to be registered under a particular party affiliation; (2) incentives to vote might be offered to voters who live in a particular location where a disproportionate number of voters support a particular candidate or party; or (3) incentives to vote might be offered to a group of people attending a particular political event or rally. In such situations, it would be possible that the intent of the person offering the incentives could run afoul of section 104.061(2), Florida Statutes, in a way that would constitute “vote-buying” or corruptly influencing voting. Similarly, the person offering to vote or voting in exchange for the incentive could violate the prohibition against “vote-selling” in section 104.045.

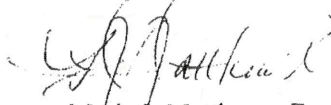
Leonard Schmiede  
January 21, 2016  
Page 4 of 4

a payment from your political committee to an elector to be a valid and permissible expenditure, it must be to influence the results of an election, i.e., to influence the elector to vote in a certain manner. But such a payment would be illegal under sections 104.045 and 104.061. Your political committee could not lawfully pay someone to vote without that expenditure being invalid under sections 106.11(1)(a) and 106.011(10)(a).

#### SUMMARY

Sections 104.045 and 104.061, Florida Statutes, explicitly prohibit "vote-buying" and "vote-selling." It would be illegal to offer incentives for voting if the intent were to circumvent the prohibitions against "vote-buying" and "vote-selling" in sections 104.045 and 104.061. A political committee can only spend money to influence the results of an election. A political committee's payment to an elector to vote could only be valid under chapter 106 if it were done to influence how that elector voted, which in turn would be illegal under sections 104.045 and 104.061. Therefore, a political committee could not lawfully make a valid expenditure to pay someone to vote.

Respectfully,

A handwritten signature in dark ink, appearing to read "Maria J. Matthews", is written over the typed name.

Maria J. Matthews, Esq.  
Director, Division of Elections



## United States Code Annotated - 2016

United States Code Annotated  
Title 18. Crimes and Criminal Procedure (Refs & Annos)  
Part I. Crimes (Refs & Annos)  
Chapter 29. Elections and Political Activities

18 U.S.C.A. § 597

### § 597. Expenditures to influence voting

Effective: October 11, 1996

Currentness

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote--

Shall be fined under this title or imprisoned not more than one year, or both; and if the violation was willful, shall be fined under this title or imprisoned not more than two years, or both.

#### Credits

(June 25, 1948, c. 645, 62 Stat. 721; Pub.L. 103-322, Title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147; Pub.L. 104-294, Title VI, § 601(a)(12), Oct. 11, 1996, 110 Stat. 3498.)

#### HISTORICAL AND STATUTORY NOTES

##### Revision Notes and Legislative Reports

1948 Acts. Based on §§ 250, 252, of Title 2, U.S.C., 1940 ed., The Congress (Feb. 28, 1925, c. 368, Title III, §§ 311, 314, 43 Stat. 1073, 1074).

This section consolidates the provisions of §§ 250 and 252 of Title 2, U.S.C., 1940 ed., The Congress.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in § 2 of this title.

The punishment provisions of § 252 of Title 2, U.S.C., 1940 ed., The Congress, were incorporated at end of section upon authority of reference in such section making them applicable to this section.

Words "or both" were added to conform to the almost universal formula of the punishment provisions of this title.

Changes were made in phraseology.

1994 Acts. House Report No. 103-324, House Report No. 103-489, and House Conference Report No. 103-711, see 1994 U.S. Code Cong. and Adm. News, p. 1801.

§ 597. Expenditures to influence voting, 18 U.S.C.A. § 597

1996 Acts. House Report No. 104-788, see 1996 U.S. Code Cong. and Adm. News, p. 4021.

#### Amendments

1996 Amendments. Pub.L. 104-294, § 601(a)(12), substituted "fined under this title" for "fined not more than \$10,000".

1994 Amendments. Pub.L. 103-322, § 330016(1)(H), substituted "under this title" for "not more than \$1000".

#### CROSS REFERENCES

Misdemeanors tried by United States magistrates as excluding offenses punishable under this section, see 18 USCA § 3401.

#### LIBRARY REFERENCES

American Digest System

Election Law § 691.

Key Number System Topic No. 142T.

#### RESEARCH REFERENCES

ALR Library

69 ALR 377, Constitutionality of Corrupt Practices Acts.

Encyclopedias

Am. Jur. 2d Elections § 450, Bribery.

Treatises and Practice Aids

Federal Procedure, Lawyers Edition § 28:325, Offenses Involving Influencing or Interfering With Voter.

#### NOTES OF DECISIONS

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#### **1 Constitutionality**

In determining the constitutionality of this section, the U.S.C.A. Const. Amend. 1 rights of corporations and labor unions must be weighed against the substantial governmental interests in preserving the integrity of the electoral process, in preventing corporate and union officials from using corporate assets or general union dues to promote political parties and candidates without the consent of stockholders or union members with differing political views, and in protecting individuals who may refuse to contribute to campaign funds against reprisals; the need for such safeguards is particularly acute in the labor field where labor union membership can be condition of employment. U.S. v. Chestnut, S.D.N.Y.1975, 394 F.Supp. 581. Constitutional Law 1698; Constitutional Law 1700; Election Law 180; Election Law 181

This section did not violate U.S.C.A. Const. Amend. 1 rights of corporations and labor unions when balanced against the legitimate governmental interests involved and tested by the "least drastic means" test. U.S. v. Chestnut, S.D.N.Y.1975, 394 F.Supp. 581. Constitutional Law 1698; Constitutional Law 1700; Election Law 682

Provision of former § 250 of Title 2 [now this section] proscribing making of expenditures to influence voting made it a criminal offense for persons to make or cause an expenditure to be made to any person to vote at a general election, where official ballot contained names of candidates for Congress and person receiving expenditure proscribed voted the official ballot, and such legislation was within the power of Congress. U.S. v. Blanton, E.D.Mo.1948, 77 F.Supp. 812. Election Law 682; Election Law 691

Former § 250 of Title 2 [now this section] prohibiting expenditures to influence voting was not unconstitutional on ground that such section covered elections over which Congress had no control, and that even if such section was limited to national elections, it was too uncertain to be sustained, since such section, read as a whole in light of former § 241 of Title 2 [now § 591 of this title] defining the term "candidate" as used in former chapter was limited to elections at which federal office candidates were presented for election. U.S. v. Foote, D.C.Del.1942, 42 F.Supp. 717. Constitutional Law 1130.8; Election Law 682; Election Law 683

## 2 Construction

Under former § 250 of Title 2 [now this section] prohibiting the making or offering to make an expenditure to any person, "either to vote or withhold his vote, or to vote for or against any candidate", Congress intended the entire quoted phrase to be read as a whole and as so read such section was limited to those elections at which a "candidate", as the word was defined to include candidates for federal offices, was presented for election, in view of the clear purpose of such section to prevent corruption in public elections. U.S. v. Foote, D.C.Del.1942, 42 F.Supp. 717. Election Law 691

## 3 Law governing

Federal statutes, in so far as prohibiting interference with right of suffrage and corrupt practices in connection with elections for Senators and Representatives in Congress, are paramount, and supersede any conflicting state legislation. In re Cohen, C.C.A.2 (N.Y.) 1932, 62 F.2d 249. United States 217(2)

## 4 Time of expenditure

Absent some preelection agreement, payments made to voters after election would constitute no offense. U.S. v. Bruno, N.D.Ill.1955, 144 F.Supp. 593. Election Law 691

## 5 Perjury

In perjury prosecution arising out of charge that defendant swore falsely that he did not pay any person for voting, where witnesses testifying that defendant paid them after voting further stated that they did not examine the ballots, such fact did not amount to failure to show that the witnesses had voted as ballots may have been blank, since it was immaterial whether they had actually voted, the question being whether defendant paid persons with intention that they should vote. *U.S. v. Palese*, C.C.A.3 (Del.) 1943, 133 F.2d 600. Perjury 29(2)

## 6 Grand jury investigation

Records of state election for Senators and Representatives, preserved under state law, were relevant to any investigation by federal grand jury of interference with right of suffrage and corrupt practices. *In re Cohen*, C.C.A.2 (N.Y.) 1932, 62 F.2d 249. Grand Jury 33

Voting machines containing results of state election for Senators and Representatives in Congress were relevant to investigation by federal grand jury of interference with right of suffrage and corrupt practices. *In re Cohen*, C.C.A.2 (N.Y.) 1932, 62 F.2d 249. Grand Jury 33

Issuance of subpoenas duces tecum by federal grand jury investigating state election for Senators and Representatives in Congress, for production of records and voting machines in custody of state officials, was not in violation of U.S.C.A.Const. Art. I, § 4, cl. 1 authorizing state Legislatures to prescribe time, place, and manner of holding elections. *In re Cohen*, C.C.A.2 (N.Y.) 1932, 62 F.2d 249. United States 217(1)

Whether grand jury, before which perjury was allegedly committed, had been lawfully constituted was matter which defendant could only raise by proper motion supported by sufficient affidavits; and she could not successfully claim that statement in indictment, to effect that grand jury had been conducting investigation of possible voting irregularities during a general election, showed that grand jury had not been engaged in investigation of offenses against United States. *U.S. v. Kennefick*, N.D.Ill.1956, 144 F.Supp. 596. Perjury 22

## 7 Jurisdiction

Jurisdiction of federal court in case involving payment of money to voter does not follow simply because offense occurred in an election in which a federal officer was to be voted for, but indictment must charge facts from which it follows that election of federal officer either was influenced or was subject to probability of unlawful influence. *U.S. v. Blanton*, E.D.Mo.1948, 77 F.Supp. 812. Election Law 718

## 8 Indictment

Paying for vote for candidate for state office is a state offense and paying for a vote for candidate for federal office is federal offense; and indictment for federal offense of influencing votes at general election for both federal and state offices would have to charge that defendant had influenced vote for candidate for federal office or, in the alternative, that defendant had illegally induced vote at general election at which voter did in fact cast his ballot for federal office candidate. *U.S. v. Bruno*, N.D.Ill.1955, 144 F.Supp. 593. Election Law 691; Election Law 718

Indictments alleging an expenditure to any person either to vote or withhold his vote for United States Senator or Congressman or which alleged an acceptance of payment for the vote or the withholding thereof were within the purview of this section. *U.S. v. Viola*, W.D.Pa.1954, 126 F.Supp. 718. Election Law 718

An indictment charging that defendant did unlawfully make expenditures to claimed individuals to be expended by them to voters brought to the polls by them and in consideration of the voters casting their votes, but which did not allege that



§ 597. Expenditures to influence voting, 18 U.S.C.A. § 597

the defendant paid the individuals, either to vote or withhold their vote, and which contained no count for conspiracy, was insufficient to charge an offense under this section. U.S. v. Viola, W.D.Pa.1954, 126 F.Supp. 718. Election Law 718

Counts of indictment in language of former § 250 of Title 2 [now this section] charging expenditures to influence voters was sufficient. U.S. v. Blanton, E.D.Mo.1948, 77 F.Supp. 812. Indictment And Information 110(28)

Indictment charging conspiracy to commit offenses against laws of United States by making and causing to be made an expenditure and to pay and cause to be paid, certain sums of money to divers persons to vote in a general election at which names of candidates for United States Senate and United States House of Representatives appeared on official printed ballot was sufficient. U.S. v. Blanton, E.D.Mo.1948, 77 F.Supp. 812. Election Law 718

An indictment charging violation of former § 250 of Title 2 [now this section] was quashable as to the counts which charged defendant with bribery of persons unknown to the grand jury to vote for two "candidates" at a general election held in city of Wilmington on certain date and with bribery of persons unknown to the grand jury to vote at the election, since the place of commission of alleged offense was not confined to a definite area of such size as to clearly fix the crime, and conviction under such counts would not be a bar to a subsequent prosecution for bribery of a specified voter. U.S. v. Foote, D.C.Del.1942, 42 F.Supp. 717. Indictment And Information 137(6)

## 9 Mandamus

Under earlier acts relating to the same subject as this section it was held that the federal district courts had no power to compel rights thereunder by mandamus. In re Higdon, E.D.Mo.1920, 269 F. 150.

18 U.S.C.A. § 597, 18 USCA § 597

Current through P.L. 114-115 approved 12-28-2015

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Proposed Legislation

United States Code Annotated  
Title 52. Voting and Elections (Refs & Annos)  
Subtitle I. Voting Rights  
Chapter 103. Enforcement of Voting Rights

52 U.S.C.A. § 10307

Formerly cited as 42 USCA § 1973i

## § 10307. Prohibited acts

Currentness

### **(a) Failure or refusal to permit casting or tabulation of vote**

No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of chapters 103 to 107 of this title or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

### **(b) Intimidation, threats, or coercion**

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 10302(a), 10305, 10306, or 10308(e) of this title or section 1973d or 1973g of Title 42.<sup>1</sup>

### **(c) False information in registering or voting; penalties**

Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years, or both: *Provided, however,* That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

### **(d) Falsification or concealment of material facts or giving of false statements in matters within jurisdiction of examiners or hearing officers; penalties**

Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing

or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

**(e) Voting more than once**

(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 10502 of this title, to the extent two ballots are not cast for an election to the same candidacy or office.

**CREDIT(S)**

(Pub.L. 89-110, Title I, § 11, Aug. 6, 1965, 79 Stat. 443; renumbered Title I, Pub.L. 91-285, § 2, June 22, 1970, 84 Stat. 314; amended Pub.L. 91-405, Title II, § 204(e), Sept. 22, 1970, 84 Stat. 853; Pub.L. 94-73, Title IV, §§ 404, 409, Aug. 6, 1975, 89 Stat. 404, 405.)

Notes of Decisions (54)

**Footnotes**

1 Repealed by Pub.L. 109-246, § 3(c), July 27, 2006, 120 Stat. 580.

52 U.S.C.A. § 10307, 52 USCA § 10307

Current through P.L. 116-158.