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* FLORIDA BAR BOARD CERTIFIED IN CITY, COUNTY AND LOCAL GOVERNMENT LAW

June 17, 2026

Via Email
City of Belle Isle
Attn: Rick Rudometkin, City Manager
and Yolanda Quienco, City Clerk

RE: Informative Memorandum Discussing Legal Restrictions on City Acts and Communications Regarding Ballot Measures

Dear Rick & Yolanda:

Enclosed is our memorandum addressing Florida law governing the City's use of public funds, resources, and official authority in connection with communications about proposed legislative measures, referenda, and constitutional amendments subject to a vote of the electors. We have prepared this memo to help educate City officials and staff regarding statutory limitations on providing information to voters regarding upcoming ballot initiatives.

In brief, section 106.113, Florida Statutes, strictly limits the City-funded communications based on timing. Before a proposal becomes a formal ballot question, the City may use public funds to provide neutral, factual information regarding municipal revenues, services, and other potential impacts. Once a proposal is placed on the ballot, however, the City may not expend public funds for communications sent directly to electors, even if those communications are purely factual.

After ballot placement, permissible City activity is limited to reporting official actions in an accurate and impartial manner, responding to inquiries, hosting public forums, posting factual information not sent directly to voters, and complying with legally required notice obligations. Elected officials retain the right to express personal opinions at any time, but those views must be clearly individual and their distribution, if any, cannot be funded by public funds.

Non-compliance carries severe enforcement consequences. Violations of section 106.113 are subject to civil penalties of up to $2,500.00 per count, with increased penalties for repeated violations, in addition to potential reputational and legal exposure for the City.

The memorandum also outlines best practices to reduce risk and ensure compliance. Enclosed for reference are the Florida League of Cities' Frequently Asked Questions, which apply a conservative interpretation of section 106.113 and are widely relied on by municipalities as a compliance benchmark.

For a high-level overview, we recommend reviewing the Executive Summary of our enclosed memorandum as well as the League of Cities' summary of Permissible Communications as set forth on the last page of our enclosed memorandum.

Respectfully Submitted,

s/ Daniel W. Langley

Fishback Dominick LLP.

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ATTORNEYS AND COUNSELORS AT LAW

1947 LEE ROAD
WINTER PARK, FLORIDA 32789-1834

June 17, 2026

To: City of Belle Isle
From: Fishback Dominick LLP
Re: Statutory Limitations on Local Government Lobbying Efforts, Communications, and Related Expenditures

ISSUE

What restrictions does Florida law impose on the City, City Council members, and City employees with respect to the use of public funds, public resources, and official authority in connection with communications regarding proposed or pending legislative measures, referenda, or constitutional amendments that are subject to a vote of the electors?

EXECUTIVE SUMMARY

Florida law strictly limits the City's use of public funds and resources to communicate with electors about proposed legislative measures, referenda, or constitutional amendments.

Under section 106.113, Florida Statutes, the City may not expend public funds for political advertisements or for communications sent directly to electors ***once a proposal becomes a ballot question***, ***regardless of whether the communication is factual.*** Before ballot placement, the City may expend public funds to provide neutral, factual information concerning municipal services, revenues, and potential impacts, but may not expend public funds to advocate a position.

After ballot placement, permissible City activity is limited to reporting official actions in an accurate and impartial manner, responding to inquiries, hosting public forums, and posting factual information not sent directly to voters.

Elected officials have the right to express personal opinions on ballot measures at any time, but those views must be clearly individual and not funded, distributed, or endorsed by the City.

As an additional resource, enclosed with this memorandum is the Florida League of Cities' frequently asked questions on this matter.

ANALYSIS

I. Section 106.113, Florida Statutes – Local Government Expenditure Restrictions

Section 106.113, Florida Statutes, prohibits a local government, or any person acting on its behalf, from expending or authorizing the expenditure of public funds for political advertisements or for any other communication sent to electors concerning an issue, referendum, or amendment that is subject to a vote of the electors. § 106.113(2), Florida Statutes. The prohibition applies regardless of whether the communication is framed as factual or expressly advocates for the passage or defeat of the measure. However, the prohibition only applies once an issue, referendum, or amendment is "subject to a vote of the electors," meaning that it has become a formal ballot question. More detailed analysis of the timing of section 106.113 is found in Subsection I.A. of this memo.

The statute provides, in relevant part, that a:

> "local government may not expend or authorize the expenditure of public funds for a political advertisement or any other communication sent to electors concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. This prohibition applies to communications initiated by a local government or by a person acting on behalf of a local government, irrespective of whether the communication is limited to factual information or advocates for the passage or defeat of the measure."

In short, paid political advertisements concerning a political issue is always prohibited when funded with public funds, regardless of whether the issue has formally become a ballot question.

The statute expressly recognizes several permissible activities. Per section 106.113(2), Florida Statutes, a local government may, at any time:

- Report on official actions of its governing body in an accurate, fair, and impartial manner;
- Post factual information on a government website or in printed materials;
- Host public forums;
- Respond to inquiries with factual information; and
- Provide information as otherwise authorize or required by law.

The statute further provides that it does **not preclude an elected official** from **expressing an opinion** on any issue **at any time.** 106.113(3), Florida Statutes.

A. When Section 106.113 is Triggered

"When a concept or proposal remains under consideration by legislators, it is not yet a Ballot Question 'subject to a vote [of the electors]'. But when a concept or proposal is passed as a: (1) joint resolution in bill form, (2) by three-fifths of Florida's House and Senate, (3) transmitted to Florida's Department of State, ***and*** (4) assigned a designating number for placement on an upcoming ballot, the proposal has achieved a 'Ballot Placement' and thus become a 'Ballot Question' subject to a vote.[1]

Before ballot placement, cities retain broader discretion to educate residents using public funds. Cities may explain municipal services made possible through the city's shared tax revenues, how said revenues are derived, used, and which services and programs are forecast to be reduced or lost if said revenues were to be eliminated.[2] After ballot placement, restrictions tighten significantly.

B. Meaning of "Expend or Authorize the Expenditure of Public Funds"

Section 106.113(1)(b) defines "**public funds**" as "all moneys under the jurisdiction or control of the local government." § 106.113(1)(b), Florida Statutes. The statute therefore focuses on the use of government money, rather than incidental use of physical space. Accordingly, it is unlikely that mere use of City dais, buildings, or property, without more, constitutes an expenditure or authorization of use of public funds under the statute.

City officials and staff may use public funds to research and explain facts and potential fiscal impacts before a proposal becomes a ballot question. Further, cities can use funds to send its research, findings, and other relevant information to residents *if done before a proposal becomes a ballot question*.[3] Once ballot placement occurs, however, even purely factual information may not be sent directly to voters using public funds.

C. Political Advertisements and Communications Media

A "**political advertisement**" is defined as

> a paid expression in a communications medium that expressly advocates the election or defeat of a candidate or the approval or rejection of an issue.
>
> § 106.011(15), Florida Statutes.

The term "communications medium," as contemplated by the statute, includes broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mail,

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[1] **Florida League of Cities**, *Frequently Asked Questions*: *Communicating About Property Taxes Under Florida's Law Banning Local Government Expenditures on Ballot Questions* (Jan. 23, 2026), https://www.floridaleagueofcities.com (last visited Jan. 26, 2026).

[2] *Id*.

[3] *Id*.

advertising agencies, the Internet, and telephone communications, subject to the statutory limitations and exclusions applicable to those media. § 106.011(15)(a)-(b), Florida Statutes.

The term "communication medium" in this context excludes certain communications, including statements by preexisting organizations distributed solely to their members through internal newsletters, and editorial endorsements by newspapers, radio stations, television stations, or other recognized news media. § 106.011(15)(a)-(b), Florida Statutes.

Florida courts have not adopted a single, definitive test for determining what constitutes "**express advocacy**." Federal courts apply two commonly cited standards:

- Functional Equivalent Test: a communication is 'express advocacy' only if it is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate." ***Citizens United v. FEC***, 558 U.S. 310, 324 (2010).

- Magic Words Test: express advocacy requires words such as "vote for," "vote against," "support," or "defeat. ***Buckley v. Valeo***, 424 U.S. 1, 44 n.52 (1976).

All material communicated on the measure or issue should focus on facts and avoid language that amounts to 'political advertisement' or qualitative claims. In an abundance of caution, if published materials are created for transmission to electors, a dissemination date should be placed on the materials to help demonstrate that it was sent before it became a ballot question.[4] Further, the use of public funds to pay to boost social media posts concerning a measure or issue likely constitutes as 'sending' the communication to voters at public expense and a 'paid expression' for political advertisement purposes.[5]

D. "Any Other Communication Sent to Electors"

The statute does not define the phrase "**any other communication sent to electors**," and there is no controlling case law or formal advisory opinion squarely addressing whether this language encompasses meetings that are broadcast or made available to the public. However, the Florida League of Cities defines "communications sent to electors" as ***any materials delivered directly to voters (by mail, email, etc.) regardless of content***.[6]

Accordingly, communications affirmatively transmitted to electors are the primary concern, rather than meetings that are merely accessible to the public. For example, City Commission meetings that are recorded and posted on the City's website are available to the general public, including non-electors, and are not specifically paid for using public funds and sent or directed to electors as a class. On that basis, a broadcast or publicly accessible meeting is unlikely, by itself, to constitute a prohibited communication under Section 106.113.

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[4] *Id.*
[5] *Id.*
[6] *Id.*

E. Communications Sent to Mixed Audiences

Communications that amount to political advertisements, which are paid for with public funds, are **always impermissible** regardless of when they are sent and to whom they are sent. However, factual communications before ballot placement, which avoid subjective, qualitative statements are permissible. After ballot placement, sending communications to electors at the public's expense, even if purely factual, is impermissible.

F. Communications by Private Entities

Section 106.113 is not implicated when a private entity **independently** advocates for or against a measure without City funding or authorization. If a private entity transmits a communication encouraging electors to approve or defeat a measure, and the City has not expended or authorized the expenditure of public funds for that communication, the statute is not implicated. The prohibition applies only when public funds are expended or authorized after ballot placement has been achieved.

G. City Websites and City-Funded Mailers

The use of a City website or a City-funded mailer to encourage electors to vote for or against a measure is always impermissible as such would likely constitute political advertisement which is always impermissible. However, the City may post informational, unbiased, and factual material on its website and may report on official actions in an accurate and impartial manner, before the matter becomes a 'ballot question.' The City should, at all times, refrain from taking a position on the measure itself.

Elected officials may express personal opinions through speeches or media, provided public funds are not used to distribute those opinions or convert them into political advertisements. Further, our strict interpretation of 106.113(3) supports elected officials' ability to express their opinions *at any time*. Officials should take due care in ensuring their expressions are opinions and not statements in an official capacity which expressly advocate for or against a measure or issue. For example, officials shall make it clear that what they are expressing is purely their personal opinion and in no way should it be construed a declaration of official policy.

City staff may participate in advocacy while **off-duty,** and **with their own resources**, but should **avoid using city resources for advocacy during work hours**.[7]

H. Scope of the Statutory Prohibition

While the statute permits reporting on official actions of the governing body in an accurate, fair, and impartial manner, it is unclear whether adopting a resolution that takes a position on a proposed measure or issue is permissible. While the act of adopting a resolution is an official act, it may be viewed as advocacy if done for the purpose of taking an official position on a proposed measure or issue. As a best practice, if a city elects to adopt a resolution addressing a proposed measure, the resolution should expressly state that it is intended to comply with section 106.113,

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[7] **Florida League of Cities**, *Property Tax Ballot FAQs.*

Florida Statutes, and that it is adopted based on a good-faith interpretation of the statute permitting official governmental actions that do not violate the law.[8]

I. Personal Opinions of Elected Officials

Section 106.113 expressly permits elected officials to express opinions at any time. While "personal opinion" is undefined, Florida case law recognizes a strong public interest in allowing officials to explain their actions freely. *Quintero v. Diaz*, 300 So. 3d 288, 290–91 (Fla. 3d DCA 2020). This supports the distinction between individual expression and City-funded advocacy.

J. Statements by Elected Officials Absent an Elector Question

The statute does not expressly require that a commissioner's statement be made in response to a question from an elector. Strictly construing the statute, if no public funds are expended for a commissioner to express an opinion, a mere statement by a commissioner is unlikely to fall within the statute's scope solely by virtue of being made. Similarly, if the commissioner is presented with a question from an elector, it is likely the statute permits a response if such response results in no expense to the City.

II. Section 104.31, Florida Statutes--Political Activities of Officers and Employees

Section 104.31, Florida Statutes, governs the political activities of state, county, and municipal officers and ***employees***. § 104.31, Florida Statutes. The statute prohibits officers and employees from using official authority or influence to interfere with an election, coerce another person's vote, or otherwise affect an electoral outcome. It also ***prohibits coercive political activity*** directed at other officers or employees ***and restricts political campaign activity while on duty***.

However, the statute expressly provides that:

> "it shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature, of elected officials or candidates for public office in the state or of any county or municipality thereof." 104.31(1)(c), Florida Statutes.

III. Advertising of Meetings

The City remains required to advertise City Commission meetings as otherwise mandated by law. Compliance with statutory and charter-based notice and advertising requirements does not, by itself, constitute advocacy, provided that the advertising remains neutral, factual, and limited to the required notice information.

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[8] *Id.*

SUMMARY OF FLORIDA LEAGUE OF CITIES' POSITION

Permissible Communications and Acts Before Proposal Becomes a Ballot Question
Produce brochures, flyers, and printed materials explaining property tax facts, which may be sent to residents.
Host and participate in public meetings, town halls, forums, or media events to answer inquiries.
Post verifiable factual information on official city websites and social media. *use of public funds to boost/advertise social media post(s) is not permissible.
Respond to public inquiries with factual information.
Report on official city actions related to property tax issues in an accurate, fair, and impartial manner.

Florida League of Cities*, Frequently Asked Questions: Communicating About Property Taxes Under Florida's Law Banning Local Government Expenditures on Ballot Questions*

Permissible Communications and Acts After Proposal Becomes a Ballot Question
Posting verifiable, factual information on city website and social media pages; ***cannot be sent directly to voters through any use of public funds*
Host and participate in public meetings, town halls, forums, and media events to answer inquiries;
Respond to public inquiries with factual information;
Report on official city actions related to property tax issues in an accurate, fair, and impartial manner;
Produce brochures, flyers, printed materials explaining facts and making such available for the public to receive or take when visiting city hall, public forums, or other places, ***<u>provided that such are not sent to voters at any public expense, ensuring that none amount to political advertisements paid for with public funds.</u>*** (emphasis added)

Florida League of Cities*, Frequently Asked Questions: Communicating About Property Taxes Under Florida's Law Banning Local Government Expenditures on Ballot Questions*

CONCLUSION

The City may not expend or authorize the expenditure of public funds to initiate communications intended to influence how electors vote on proposed or pending legislative measures. The City may, however, accurately and impartially report on official actions, provide factual and content-neutral information on a government website or in printed materials not sent directly to electors, respond to inquiries, host informational forums, and comply with legally required meeting notice and advertising obligations.

Elected officials may express personal opinions on issues at any time, provided that such opinions are clearly identified as individual views and are not presented as the official position of the City or supported by the expenditure of public funds. City officers and employees must also comply with Section 104.31, Florida Statutes, and avoid using official authority or influence to interfere with elections or coerce political activity.

Frequently Asked Questions:

Communicating About Property Taxes Under Florida's Law Banning Local Government Expenditures on Ballot Questions

The following material is for informational purposes and not intended as legal advice. Seek the advice of your City Attorney or election law counsel before making any related decisions.

Changes to Florida's property tax system may reach the ballot in November 2026. City governments should be considering ways to educate residents about how property tax revenues are generated, how they are used, and the fiscal impacts forecast to result if those revenues are lost. However, cities must be mindful of election laws, which limit the use of public funds by cities and other local governments to communicate about ballot issues subject to the decision of voters. This material addresses the relevant law and several related questions to help cities understand how it applies to them.

A. What law is at play?

Section 106.113, Florida Statutes, prohibits the expenditure of public funds by local governments on (1) political advertisements or (2) communications sent to voters concerning a "Ballot Question" subject to a vote of Florida electors (voters).

▸ Under the law, when would a "ballot question" concerning property taxes arise?

When a concept or proposal remains under consideration by legislators, it is not *yet* a Ballot Question "subject to a vote." But, when a concept or proposal is passed as a joint resolution in bill form by three-fifths of Florida's House and Senate, transmitted to Florida's Department of State, and assigned a designating number for placement on an upcoming ballot, **the proposal has achieved "Ballot Placement" and thus becomes a "Ballot Question" subject to a vote.**[1]

[1] It may help to approach §106.113 and citizen education/messaging in two phases: BEFORE BALLOT PLACEMENT, city communications are more likely to be treated as pure citizen education. AFTER BALLOT PLACEMENT, city communications face the threat of being treated as attempts at prohibited political advocacy. Thus, once a legislative proposal attains Ballot Placement, all elements required to trigger §106.113 are present and create heightened risk of violating the ban on expenditures used to send content to voters.

B. What's prohibited?

1. **A paid political advertisement related to** a political issue and published/ broadcast in any communications medium, <u>even before it becomes a Ballot Question</u>, **is always prohibited if paid for using public funds.**

2. **Communication *sent to voters*** and related to a proposal <u>after it has become a Ballot Question</u> **is prohibited if paid for using public funds**.

C. The period <u>*BEFORE*</u> a property tax proposal matures into a ballot question

1. Can our city use public funds to educate residents about property tax revenues and their importance to municipal services?

Yes. Cities may expend funds to help educate residents with property tax facts. City officials and staff may use city resources necessary to perform research and analysis needed to understand potential tax revenue changes and impacts. Cities can explain the municipal services made possible through the city's share of property tax revenues, how property tax revenues are derived, budgeted, and used, and which services and programs are forecast to be reduced or lost if tax revenues were eliminated. In all of this, the city may use city funds to send its research, findings, or other relevant information to residents, if done before a proposal becomes a Ballot Question. However, <u>**once a proposal becomes an actual Ballot Question, even factual information *may not be sent to voters* using public funds.**</u> At that stage, other communication methods must be used that don't involve sending communications to voters, such as the city's website or social media platform posts.

2. What types of activities or events may cities use to educate residents before a proposal becomes a ballot question?

- Produce brochures, flyers, and printed materials explaining property tax facts, which may be sent to residents.[2] Cities may distribute content via email.

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[2] <u>**Before Ballot Placement occurs**</u>, cities can send these types of messages or materials to voters at the city's expense as educational materials. <u>**After Ballot Placement**</u>, these same materials could be construed as communication of political advocacy in violation of **§106.113 if sent to voters at the city's expense**. If published materials are created to be sent to residents, these should include a dissemination date (month/ year) to help demonstrate that it was sent to the public before a proposal became a ballot question.

However, as discussed below, paying for and using email distribution lists to transmit this type of material may violate §106.113 ***if sent*** to voters ***after*** a proposal matures into a Ballot Question.

- Host and participate in public meetings, town halls, forums, or media events to answer questions.
- Post verifiable factual information on official city websites and social media.[3]
- Respond to public inquiries with factual information.
- Report on official city actions related to property tax issues in an accurate, fair, and impartial manner.

3. Can city staff and elected officials express opinions that advocate for or against potential property tax proposals before they become ballot questions?

Yes. Elected officials may express their opinions at any time through speeches or written materials published in newspapers or other media, provided no public funds are used to send those opinions directly to residents or to transform those opinions into paid political advertisements. City staff may participate in advocacy on their own time (during non-working hours) and with their own resources but **should avoid using city resources for advocacy during work hours**.

4. What are the general limits on what can be communicated before a proposal becomes a Ballot Question?

All material communicated on the subject of property tax changes should focus on facts and avoid language that amounts to "political advertisement" (i.e., messages urging residents to "vote for" or "vote against" proposals to change property taxes). Communications should focus on verifiable data and avoid subjective or qualitative statements. For example, stating "Property taxes fund police, fire, and parks" is factual; saying "Property tax cuts will harm public safety" is a qualitative claim and should be avoided. By limiting messaging and education to verifiable, factual information, cities limit the chance their communications may be characterized as unlawful "political advertisement" developed using public funds. As an added precaution, if published materials are created to be sent to residents, they should include the dissemination date (month/year) to help demonstrate that it was sent to the public before a proposal became a Ballot Question.

[3] Cities should take particular care around the use of social media platforms and understand if such content is posted at a cost designed to boost its reach to any of the voting public. An argument can be made that paying to boost a social media post constitutes "sending" the communication to voters' feeds at public expense. It would also constitute a "paid expression" for political advertisement purposes.

5. Can the city adopt a resolution opposing amendments to property tax laws before any such proposal attains Ballot Placement?

Maybe, but it carries uncertain legal risk. The better course is to use any official act by a council or commission to communicate factual and verifiable information about the role property tax revenues play in city government and communicate demonstrable impacts the city determines would flow from the loss of such revenues. Under the current version of §106.113, there are no reported opinions clearly approving the adoption of resolutions opposing proposed property tax amendments. Section 106.113(2) states, *"This subsection does not preclude a local government or a person acting on behalf of a local government from reporting on official actions of the local government's governing body in an accurate, fair, and impartial manner . . . ."* Given that adoption of a resolution is an "official act" of municipal governments, some may see this as authorizing adoption of resolutions on the subject of property taxes, which may then be reported to the public. Others may look further and see the requirement to report on official actions in a fair and impartial manner as a warning against any official actions seen as political advocacy, taking sides for or against a property tax proposal.

If a city, nonetheless, feels compelled to adopt a resolution, it should include language in the resolution's preamble that its action is intended to comply with §106.113 and is based on a good faith interpretation of the statute's wording, which allows local governments to take official actions without violating the law. Arguably, the official act of passing a resolution does not require a direct expenditure of public funds, but even this argument cannot remove the risk of a filed complaint alleging a resolution violates §106.113.

6. Can a city use public funds for messages opposing property tax proposals in any medium before a proposal becomes a ballot question?

No. This type of message very likely will be considered "political advertisement." Using public funds to pay for political advertisement explicitly "opposing" an issue is always prohibited, even before a proposal becomes a Ballot Question. Florida's election code defines "political advertisement" in a specific manner. As defined later in this document, political advertisement always consists of express advocacy "for or against" a proposed "issue," regardless of whether the issue has matured into a Ballot Question. This means the trigger contained in §106.113 may occur as soon as a paid communication containing express advocacy "for or against" the issue is published. Therefore, cities should not use public funds to procure paid political advertisements. Instead, cities may safely use resources to educate residents with factual and verifiable information about the role property tax revenues play in city government and communicate demonstrable impacts the city determines would flow from the loss of such revenues. Paid messaging that is limited to factual and verifiable content, without language the law regards as political advertisement/express advocacy, should be permissible to the same extent as other communications discussed elsewhere in this document. However, any messaging produced with public funds and published in any public media format should be reviewed in consultation with legal counsel to ensure it remains fact-based and neutrally educational, and not a political advertisement.

D. The period *AFTER* a property tax proposal matures into a ballot question

1. At what point are §106.113's restrictions on public expenditures related to ballot proposals most likely triggered to take effect?

The spending prohibitions are most clearly triggered **when any legislative proposal is enacted by the House and Senate, sent to the Department of State, and assigned a ballot number by the Department of State**. At this stage, a ballot proposal is understood to become a Ballot Question that is "subject to a vote of the electors."

The spending prohibitions are always triggered against **political advertisements** paid for using public funds.

2. What is prohibited after a proposal becomes a Ballot Question?

- Using public funds to send any communication to voters about the Ballot Question, **even if factual**.
- Using public funds to pay for political advertisements advocating for or against the Ballot Question, even if the communication is not sent directly to voters (e.g., posted on a website).

3. What communications activities may cities use after a proposal becomes a ballot question?

- Post verifiable factual information on official city websites and social media[4] *(but may not send directly to voters through any use of public funds)*.
- Host and participate in public meetings, town halls, forums, or media events to answer questions.
- Respond to public inquiries with factual information.
- Report on official city actions related to property tax issues in an accurate, fair, and impartial manner.
- Produce brochures, flyers, and printed materials explaining property tax facts and making these available for the public to receive or takeaway when visiting city hall, public forums, or other places, provided these are *not sent to voters at any public expense, and provided none of these amounts to political advertisements paid for with public funds.*[5]

4. Can elected officials still express opinions that advocate for or against a property tax proposal after the proposal becomes a ballot question?

Yes. Elected officials may express opinions on a ballot proposal or Ballot Question at any time, provided no public funds are used to send those opinions directly to voters or to convert them into a paid political advertisement.

5. What counts as a "political advertisement" or "communication sent to electors"?

A "political advertisement" is defined as "a paid expression in a communications medium . . . [i.e., broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mail, advertising agencies, the internet, and telephone companies] whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, **which expressly advocates** the election or defeat of a candidate or **the approval or rejection of an issue**." §106.011(15), Florida Statutes.

[4] Cities should take particular care around the use of social media platforms and understand if such content is posted at a cost designed to boost its reach to any of the voting public. An argument can be made that paying to boost a social media post constitutes "sending" the communication to voters' feeds at public expense. It would also constitute a "paid expression" for political advertisement purposes.

[5] Cities may still distribute content to voters via email, provided there are no direct costs associated with sending the email such as a payment for the email distribution list using public funds. While Division of Elections Opinion 10-06 implies that the use of a city employees' time during normal business hours to send an email would not constitute a direct cost, this issue has not been decided after the adoption of Section 106.113 and may trigger a complaint.

A **"communications sent to electors"** includes any materials **delivered directly to voters** (by mail, email, etc.), regardless of content.

Though the issue has not yet been addressed in any written opinion, it is unlikely that posting purely factual information to the city's website or an unboosted social media platform would constitute a communication "sent" to voters. And §106.113 expressly states it "does not preclude a local government or a person acting on behalf of a local government from . . . posting factual information on a government website or in printed materials." **For this reason, even after a proposal attains Ballot Placement and becomes a Ballot Question**, the use of city websites and social media to generate factual educational content should be permissible.

6. How are violations of §106.113 enforced, and what are the penalties?

The **Florida Elections Commission** adjudicates alleged complaints of violations. **Violations may result in fines up to $2,500 per count**, with higher penalties for repeated offenses. Penalties may be mitigated if the city demonstrates good faith efforts to comply with §106.113. Any person can file an administrative complaint with the Florida Elections Commission alleging a city's activities violate §106.113, provided the complaint is sworn and based on personal knowledge.

E. Points to remember with respect to §106.113 and a property tax proposal that becomes a ballot question:

Before: Cities have the most flexibility before a proposal becomes a Ballot Question and may use public funds to share factual education and messaging, whether published to a city website or sent to voters. Avoid creating political advertisements by eliminating language to "vote for" or "vote against" a proposal. Personal opinions, including opinions to "vote for" or "vote against" a proposal are permitted, provided none are generated or communicated through the use of public funds.

After: Cities have less flexibility as restrictions against public expenditures crystallize. Cities may not use public funds to send material to voters concerning a Ballot Question and may not pay for political advertisements. Public officials may voice their opinions in person, in response to questions at meetings or special forums, and through published media outlets such as opinion columns, provided these are not generated or communicated through the use of public funds.

Always: Regardless of whether a Ballot Question is formally pending, cities may report on official actions of city government; post factual information on government websites, unboosted social media platforms, or in printed materials (not sent to voters); host public forums; and respond to inquiries with factual information. Expressing personal opinions, including "vote for" or "vote against" proposals is permitted, provided it is not generated or communicated using public funds.

Never: Cities may not use public funds to create or run political advertisements expressing opposition or support for tax amendment proposals.