

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

¹It 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, even before it becomes a Ballot Question, **is always prohibited if paid for using public funds.**
2. **Communication sent to voters** and related to a proposal after it has become a Ballot Question **is prohibited if paid for using public funds.**

C. The period BEFORE 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, **once a proposal becomes an actual Ballot Question, even factual information may not be sent to voters using public funds.** 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.

² **Before Ballot Placement occurs**, cities can send these types of messages or materials to voters at the city's expense as educational materials. **After Ballot Placement**, 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.

³Cities 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 media⁴ (*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.