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## FISCAL IMPACT REPORT

SPONSOR Morales ORIGINAL DATE 3/9/15  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Truth in Political Advertising Act SB 675

ANALYST Jorgensen

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
0.0	\$5,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Public Regulation Commission (PRC)

### SUMMARY

#### Synopsis of Bill

Senate Bill 675 creates the Truth in Political Advertising Act (Act) which requires any advertisement for a statewide election, except for a campaign for judicial office or for the state legislature, to be reviewed by two review agencies prior to the advertisement being broadcast, distributed, mailed or otherwise disseminated to the public.

The Act requires the AGO to select three nonpartisan public or private entities to serve as the review agencies to score the advertisements. The score is based on a scale of 1 to 5 and advertisements are rated on both their truth or falsity and whether or not the advertisement is misleading. The rating is then required to be added to the advertisement in a prominent way. The Act further states that, should the two rating entities differ in their rating by "more than one step," the advertisement must be sent to a third entity for review.

The Act states that if a person sponsoring or paying for an advertisement fails to submit the advertisement for review, that person "shall be punished with a fine of two times the cost of producing and distributing the advertisement" and the advertisement will have to include a disclaimer stating that the advertisement has not been submitted for review. If an individual does not include the disclaimer, they "shall be punished with a fine of twenty times the cost of

producing and distributing the advertisement.”

SB 675 includes a recurring general fund appropriation to the AGO to carry out the purposes of the Act.

### **FISCAL IMPLICATIONS**

The appropriation of \$5 million contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY16 shall revert to the general fund.

### **SIGNIFICANT ISSUES**

The AGO writes:

SB 675 may violate the First Amendment. Creating a system where political advertisements must be vetted by review agencies contracted to a governmental entity may create a chilling effect on speech and thus violate the First Amendment.

Additionally, the AGO raises the following concerns:

- SB 675 does not provide guidelines for how to determine the truthfulness of an advertisement or what constitutes “misleading.”
- SB 675 gives no indication what would satisfy this requirement for a graphic display of the advertisement rating.
- Senate Bill 675 requires that if two review agencies disagree on the truthfulness score by “more than one step for either of the subcategories.” It is unclear what “one step” consists of in this context.
- Senate Bill 675 creates penalties for those who do not comply with the rules of this Act, but does not explain how these penalties will be enforced or who will be responsible for compliance with ensuring compliance with the Act.

In September, 2014, a federal judge in Ohio struck down a law which allowed the Ohio Elections Commission to review and approve political ads on the grounds that it may be used to stifle free speech in political campaigns.

CJ/je