

By Senator Klein

28-690B-98

1                                   A bill to be entitled  
2           An act relating to campaign contributions;  
3           amending s. 106.08, F.S.; providing limitations  
4           on campaign contributions; amending s. 106.011,  
5           F.S.; redefining the terms "contributions,"  
6           "independent expenditure," and "political  
7           advertisement," and defining the phrase "in  
8           coordination with" for purposes of laws  
9           governing campaign contributions; amending s.  
10          106.021, F.S.; deleting an exception to  
11          prohibitions on certain direct campaign  
12          contributions by political committees or  
13          political parties; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17           Section 1. Subsection (2) of section 106.08, Florida  
18 Statutes, is amended to read:

19           106.08 Contributions; limitations on.--

20           (2)(a) A person, political committee, or committee of  
21 continuous existence may not make contributions to a state or  
22 county executive committee or a subordinate, affiliated, or  
23 related committee of a political party regulated by chapter  
24 103 which contributions exceed \$5,000 in the aggregate in any  
25 calendar year.

26           ~~(b)(a)~~ A candidate may not accept contributions from  
27 national, state, including any subordinate, affiliated, or  
28 related committee of a national, state, or county committee of  
29 a political party, and county executive committees of a  
30 political party, which contributions, including in-kind  
31 contributions exceed \$5,000 in the aggregate in any calendar

1 ~~year in the aggregate exceed \$50,000, no more than \$25,000 of~~  
2 ~~which may be accepted prior to the 28-day period immediately~~  
3 ~~preceding the date of the general election.~~

4 (c)(b) National, state, or county committees of a  
5 political party, including subordinate, affiliated, or related  
6 committees, may not make contributions to a candidate which  
7 contributions, including in-kind contributions, exceed \$5,000  
8 in the aggregate in any calendar year.~~Polling services,~~  
9 ~~research services, costs for campaign staff, professional~~  
10 ~~consulting services, and telephone calls are not contributions~~  
11 ~~to be counted toward the contribution limits of paragraph (a).~~  
12 ~~Any item not expressly identified in this paragraph as~~  
13 ~~nonallocable is a contribution in an amount equal to the fair~~  
14 ~~market value of the item and must be counted as allocable~~  
15 ~~toward the \$50,000 contribution limits of paragraph (a).~~  
16 ~~Nonallocable, in-kind contributions must be reported by the~~  
17 ~~candidate under s. 106.07 and by the political party under s.~~  
18 ~~106.29.~~

19 Section 2. Subsections (3), (5), and (17) of section  
20 106.011, Florida Statutes, are amended and subsection (18) is  
21 added to that section to read:

22 106.011 Definitions.--As used in this chapter, the  
23 following terms have the following meanings unless the context  
24 clearly indicates otherwise:

25 (3) "Contribution" means:

26 (a) A gift, subscription, conveyance, deposit, loan,  
27 payment, or distribution of money or anything of value,  
28 including contributions in kind having an attributable  
29 monetary value in any form, made for the purpose of  
30 influencing the results of an election.

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1 (b) A transfer of funds between political committees,  
2 between committees of continuous existence, or between a  
3 political committee and a committee of continuous existence.

4 (c) The payment, by any person other than a candidate  
5 or political committee, of compensation for the personal  
6 services of another person which are rendered to a candidate  
7 or political committee without charge to the candidate or  
8 committee for such services.

9 (d) The transfer of funds by a campaign treasurer or  
10 deputy campaign treasurer between a primary depository and a  
11 separate interest-bearing account or certificate of deposit,  
12 and the term includes any interest earned on such account or  
13 certificate.

14 (e) Any political advertisement, other than an  
15 independent expenditure, paid for by a national, state, or  
16 county executive committee of a political party, including any  
17 subordinate committee of a national, state, or county  
18 committee of a political party, which refers to a clearly  
19 identified candidate.

20 (f) Any political advertisement made in coordination  
21 with a candidate which refers to a clearly identified  
22 candidate.

23 (g) Any political advertisement, other than an  
24 independent expenditure, which refers to a clearly identified  
25 candidate and is distributed at any time after the close of  
26 qualifying for that candidate's office and before the close of  
27 the general election.

28  
29 Notwithstanding the foregoing meanings of "contribution," the  
30 word shall not be construed to include services, including,  
31 but not limited to, legal and accounting services, provided

1 without compensation by individuals volunteering a portion or  
2 all of their time on behalf of a candidate or political  
3 committee. This definition shall not be construed to include  
4 editorial endorsements.

5 (5)(a) "Independent expenditure" means an expenditure  
6 by a person for the purpose of advocating the election or  
7 defeat of a candidate or the approval or rejection of an  
8 issue, which expenditure is not controlled by, coordinated  
9 with, or made upon consultation with, any candidate, political  
10 committee, or agent of such candidate or committee. ~~An~~  
11 ~~expenditure for such purpose by a person having a contract~~  
12 ~~with the candidate, political committee, or agent of such~~  
13 ~~candidate or committee in a given election period shall not be~~  
14 ~~deemed an independent expenditure.~~

15 (b) An expenditure for the purpose of advocating the  
16 election or defeat of a candidate which is made by the  
17 national, state, or county executive committee of a political  
18 party, including any subordinate committee of a national,  
19 state, or county committee of a political party, or by any  
20 political committee or committee of continuous existence, or  
21 any other person, shall not be considered an independent  
22 expenditure if the committee or person makes the expenditure  
23 in coordination with any candidate.÷

24 ~~1. Communicates with the candidate, the candidate's~~  
25 ~~campaign, or an agent of the candidate acting on behalf of the~~  
26 ~~candidate, including any pollster, media consultant,~~  
27 ~~advertising agency, vendor, advisor, or staff member,~~  
28 ~~concerning the preparation of, use of, or payment for, the~~  
29 ~~specific expenditure or advertising campaign at issue; or~~

30 ~~2. Makes a payment in cooperation, consultation, or~~  
31 ~~concert with, at the request or suggestion of, or pursuant to~~

1 ~~any general or particular understanding with the candidate,~~  
2 ~~the candidate's campaign, a political committee supporting the~~  
3 ~~candidate, or an agent of the candidate relating to the~~  
4 ~~specific expenditure or advertising campaign at issue; or~~

5       3. ~~Makes a payment for the dissemination,~~  
6 ~~distribution, or republication, in whole or in part, of any~~  
7 ~~broadcast or any written, graphic, or other form of campaign~~  
8 ~~material prepared by the candidate, the candidate's campaign,~~  
9 ~~or an agent of the candidate, including any pollster, media~~  
10 ~~consultant, advertising agency, vendor, advisor, or staff~~  
11 ~~member; or~~

12       4. ~~Makes a payment based on information about the~~  
13 ~~candidate's plans, projects, or needs communicated to a member~~  
14 ~~of the committee or person by the candidate or an agent of the~~  
15 ~~candidate, provided the committee or person uses the~~  
16 ~~information in any way, in whole or in part, either directly~~  
17 ~~or indirectly, to design, prepare, or pay for the specific~~  
18 ~~expenditure or advertising campaign at issue; or~~

19       5. ~~After the last day of qualifying for statewide or~~  
20 ~~legislative office, consults about the candidate's plans,~~  
21 ~~projects, or needs in connection with the candidate's pursuit~~  
22 ~~of election to office and the information is used in any way~~  
23 ~~to plan, create, design, or prepare an independent expenditure~~  
24 ~~or advertising campaign, with:~~

25           a. ~~Any officer, director, employee, or agent of a~~  
26 ~~national, state, or county executive committee of a political~~  
27 ~~party that has made or intends to make expenditures in~~  
28 ~~connection with or contributions to the candidate; or~~

29           b. ~~Any person whose professional services have been~~  
30 ~~retained by a national, state, or county executive committee~~  
31 ~~of a political party that has made or intends to make~~

1 ~~expenditures in connection with or contributions to the~~  
2 ~~candidate; or~~

3 ~~6. After the last day of qualifying for statewide or~~  
4 ~~legislative office, retains the professional services of any~~  
5 ~~person also providing those services to the candidate in~~  
6 ~~connection with the candidate's pursuit of election to office;~~  
7 ~~or~~

8 ~~7. Arranges, coordinates, or directs the expenditure,~~  
9 ~~in any way, with the candidate or an agent of the candidate.~~

10 (17) "Political advertisement" means a paid expression  
11 in any communications media prescribed in subsection (13),  
12 whether radio, television, newspaper, magazine, periodical,  
13 campaign literature, direct mail, or display or by means other  
14 than the spoken word in direct conversation, which shall  
15 support or oppose any candidate, elected public official,  
16 political party, or issue, whether or not it contains the  
17 words "vote for," "re-elect," or other similar statements.

18 However, political advertisement does not include:

19 (a) A statement by an organization, in existence prior  
20 to the time during which a candidate qualifies or an issue is  
21 placed on the ballot for that election, in support of or  
22 opposition to a candidate or issue, in that organization's  
23 newsletter, which newsletter is distributed only to the  
24 members of that organization.

25 (b) Editorial endorsements by any newspaper, radio or  
26 television station, or other recognized news medium.

27 (18) "In coordination with" means:

28 (a) Having a contract with the candidate, political  
29 committee, or agent of the candidate or committee in a given  
30 election period.

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1       (b) Communicating with the candidate, the candidate's  
2 campaign staff, or an agent of the candidate, including a  
3 pollster, media consultant, advertising agency, vendor,  
4 advisor, or staff member, concerning advertising, allocation  
5 of resources, fundraising, or other matters related to the  
6 candidate's campaign, including campaign operations, staffing,  
7 tactics, or strategy.

8       (c) Making a payment in cooperation, consultation, or  
9 concert with, at the request or suggestion of, or pursuant to  
10 any general or particular understanding with the candidate or  
11 the candidate's committee, or agent.

12       (d) Making a payment for the dissemination,  
13 distribution or republication of any broadcast or written,  
14 graphic, or other campaign material prepared by the candidate  
15 or his or her campaign or agent, including a pollster, media  
16 consultant, advertising agency, vendor, advisor, or staff  
17 member.

18       (e) Making a payment based on information about the  
19 candidate's plans or needs which is communicated to a member  
20 of the committee or person by the candidate or his or her  
21 agent and which is used to prepare or pay for the specific  
22 expenditure or advertising campaign at issue.

23       (f) After the last day of qualifying for statewide or  
24 legislative office, consulting with any of the following  
25 persons about the candidate's plans or needs regarding the  
26 campaign concerning information that is used to prepare an  
27 independent expenditure or advertising campaign:

28           1. An officer, director, employee, or agent of a  
29 national, state, or county executive committee of a political  
30 party that has made or intends to make expenditures for or  
31 contributions to the candidate, or

1           2. Any person whose professional services have been  
2 retained by a national, state, or county executive committee  
3 of a political party that has made or intends to make  
4 expenditures for or contributions to the candidate.

5           (g) After the last day of qualifying for statewide or  
6 legislative office, retaining the professional services of any  
7 person who has provided or is providing those services to the  
8 candidate in connection with the candidate's campaign.

9           (h) Arranging, coordinating, or directing the  
10 expenditure with the candidate or his or her agent.

11           Section 3. Subsection (3) of section 106.021, Florida  
12 Statutes, is amended to read:

13           106.021 Campaign treasurers; deputies; primary and  
14 secondary depositories.--

15           (3) Except for independent expenditures, no  
16 contribution or expenditure, including contributions or  
17 expenditures of a candidate or of the candidate's family,  
18 shall be directly or indirectly made or received in  
19 furtherance of the candidacy of any person for nomination or  
20 election to political office in the state or on behalf of any  
21 political committee except through the duly appointed campaign  
22 treasurer of the candidate or political committee. ~~However,~~  
23 ~~expenditures may be made directly by any political committee~~  
24 ~~or political party regulated by chapter 103 for obtaining~~  
25 ~~time, space, or services in or by any communications medium~~  
26 ~~for the purpose of jointly endorsing three or more candidates,~~  
27 ~~and any such expenditure shall not be considered a~~  
28 ~~contribution or expenditure to or on behalf of any such~~  
29 ~~candidates for the purposes of this chapter.~~

30           Section 4. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Limits contributions to state or county executive committees to \$5,000 per calendar year. Limits contributions to candidates from executive committees to \$5,000 in the aggregate in any calendar year. Redefines the terms "contribution," "independent expenditure," and "political advertisement," and defines the phrase "in coordination with" for purposes of campaign contribution laws. Deletes an exception to prohibitions on certain direct campaign contributions by political parties.