

By Representatives Turnbull and Brown

1 A bill to be entitled
2 An act relating to campaign financing; amending
3 s. 106.011, F.S.; revising definitions of the
4 terms "contribution," "independent
5 expenditure," and "political advertisement";
6 defining the term "in coordination with";
7 amending s. 106.021, F.S.; eliminating a
8 provision that authorizes the unrestricted
9 expenditure of funds for the purpose of jointly
10 endorsing three or more candidates; amending s.
11 106.087, F.S., relating to restrictions on
12 independent expenditures, to eliminate a
13 similar provision, to conform; amending s.
14 106.08, F.S.; providing limits on contributions
15 to political parties; revising limits on
16 contributions to candidates by political
17 parties; providing penalties; amending ss.
18 106.087 and 106.29, F.S.; correcting cross
19 references, to conform; reenacting s.
20 106.19(1)(a), F.S., relating to penalties
21 applicable to acceptance of contributions in
22 excess of limits provided by law, to
23 incorporate the amendment to s. 106.08, F.S.,
24 in a reference thereto; providing an effective
25 date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsections (3), (5), and (17) of section
30 106.011, Florida Statutes, are amended, and subsection (18) is
31 added to said section, to read:

1 106.011 Definitions.--As used in this chapter, the
2 following terms have the following meanings unless the context
3 clearly indicates otherwise:

4 (3) "Contribution" means:

5 (a) A gift, subscription, conveyance, deposit, loan,
6 payment, or distribution of money or anything of value,
7 including contributions in kind having an attributable
8 monetary value in any form, made for the purpose of
9 influencing the results of an election.

10 (b) A transfer of funds between political committees,
11 between committees of continuous existence, or between a
12 political committee and a committee of continuous existence.

13 (c) The payment, by any person other than a candidate
14 or political committee, of compensation for the personal
15 services of another person which are rendered to a candidate
16 or political committee without charge to the candidate or
17 committee for such services.

18 (d) The transfer of funds by a campaign treasurer or
19 deputy campaign treasurer between a primary depository and a
20 separate interest-bearing account or certificate of deposit,
21 and the term includes any interest earned on such account or
22 certificate.

23 (e) Any political advertisement, other than an
24 independent expenditure, that is paid for by a national,
25 state, or county executive committee of a political party,
26 including any subordinate committee of a national, state, or
27 county executive committee of a political party, that refers
28 to a clearly identified candidate.

29 (f) Any political advertisement that is made in
30 coordination with a candidate and that refers to a clearly
31 identified candidate.

1 (g) Any political advertisement, other than an
2 independent expenditure, that refers to a clearly identified
3 candidate and that is distributed at any point during the
4 period following the last day of qualifying for that office
5 through the general election.

6
7 Notwithstanding the foregoing meanings of "contribution," the
8 word shall not be construed to include services, including,
9 but not limited to, legal and accounting services, provided
10 without compensation by individuals volunteering a portion or
11 all of their time on behalf of a candidate or political
12 committee. This definition shall not be construed to include
13 editorial endorsements.

14 (5)(a) "Independent expenditure" means an expenditure
15 by a person for the purpose of advocating the election or
16 defeat of a candidate or the approval or rejection of an
17 issue, which expenditure is not controlled by, made in
18 coordination ~~coordinated~~ with, or made upon consultation with,
19 any candidate, political committee, or agent of such candidate
20 or committee. ~~An expenditure for such purpose by a person~~
21 ~~having a contract with the candidate, political committee, or~~
22 ~~agent of such candidate or committee in a given election~~
23 ~~period shall not be deemed an independent expenditure.~~

24 (b) An expenditure for the purpose of advocating the
25 election or defeat of a candidate which is made by the
26 national, state, or county executive committee of a political
27 party, including any subordinate committee of a national,
28 state, or county executive committee of a political party, or
29 by any political committee or committee of continuous
30 existence, or any other person, shall not be considered an
31

1 independent expenditure if the committee or person makes the
2 expenditure in coordination with any candidate.+

3 ~~1. Communicates with the candidate, the candidate's~~
4 ~~campaign, or an agent of the candidate acting on behalf of the~~
5 ~~candidate, including any pollster, media consultant,~~
6 ~~advertising agency, vendor, advisor, or staff member,~~
7 ~~concerning the preparation of, use of, or payment for, the~~
8 ~~specific expenditure or advertising campaign at issue; or~~

9 ~~2. Makes a payment in cooperation, consultation, or~~
10 ~~concert with, at the request or suggestion of, or pursuant to~~
11 ~~any general or particular understanding with the candidate,~~
12 ~~the candidate's campaign, a political committee supporting the~~
13 ~~candidate, or an agent of the candidate relating to the~~
14 ~~specific expenditure or advertising campaign at issue; or~~

15 ~~3. Makes a payment for the dissemination,~~
16 ~~distribution, or republication, in whole or in part, of any~~
17 ~~broadcast or any written, graphic, or other form of campaign~~
18 ~~material prepared by the candidate, the candidate's campaign,~~
19 ~~or an agent of the candidate, including any pollster, media~~
20 ~~consultant, advertising agency, vendor, advisor, or staff~~
21 ~~member; or~~

22 ~~4. Makes a payment based on information about the~~
23 ~~candidate's plans, projects, or needs communicated to a member~~
24 ~~of the committee or person by the candidate or an agent of the~~
25 ~~candidate, provided the committee or person uses the~~
26 ~~information in any way, in whole or in part, either directly~~
27 ~~or indirectly, to design, prepare, or pay for the specific~~
28 ~~expenditure or advertising campaign at issue; or~~

29 ~~5. After the last day of qualifying for statewide or~~
30 ~~legislative office, consults about the candidate's plans,~~
31 ~~projects, or needs in connection with the candidate's pursuit~~

1 ~~of election to office and the information is used in any way~~
2 ~~to plan, create, design, or prepare an independent expenditure~~
3 ~~or advertising campaign, with:~~

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

8 ~~b. Any person whose professional services have been~~
9 ~~retained by a national, state, or county executive committee~~
10 ~~of a political party that has made or intends to make~~
11 ~~expenditures in connection with or contributions to the~~
12 ~~candidate; or~~

13 ~~6. After the last day of qualifying for statewide or~~
14 ~~legislative office, retains the professional services of any~~
15 ~~person also providing those services to the candidate in~~
16 ~~connection with the candidate's pursuit of election to office;~~
17 ~~or~~

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

20 (17) "Political advertisement" means a paid expression
21 in any communications media prescribed in subsection (13),
22 whether radio, television, newspaper, magazine, periodical,
23 campaign literature, direct mail, or display or by means other
24 than the spoken word in direct conversation, which shall
25 support or oppose any candidate, elected public official,
26 political party, or issue, regardless of whether the
27 communication contains the words "vote for" or "re-elect" or
28 any similar words or statement. However, political
29 advertisement does not include:

30 (a) A statement by an organization, in existence prior
31 to the time during which a candidate qualifies or an issue is

1 placed on the ballot for that election, in support of or
2 opposition to a candidate or issue, in that organization's
3 newsletter, which newsletter is distributed only to the
4 members of that organization.

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

7 (18) "In coordination with" means a person engages in
8 any of the following:

9 (a) Has a contract with the candidate, political
10 committee, or agent of such candidate or committee in a given
11 election period.

12 (b) Communicates with the candidate, the candidate's
13 campaign committee, or an agent of the candidate acting on
14 behalf of the candidate, including any pollster, media
15 consultant, advertising agency, vendor, advisor, or staff
16 member, about any advertising, message, allocation of
17 resources, fundraising, or other campaign matters related to
18 the candidate's campaign, including campaign operations,
19 staffing, tactics, or strategy.

20 (c) Makes a payment in cooperation, consultation, or
21 concert with, at the request or suggestion of, or pursuant to
22 any general or particular understanding with the candidate,
23 the candidate's campaign committee, or an agent of the
24 candidate or committee.

25 (d) Makes a payment for the dissemination,
26 distribution, or republication, in whole or in part, of any
27 broadcast or any written, graphic, or other form of campaign
28 material prepared by the candidate, the candidate's campaign
29 or committee, or an agent of the candidate or committee,
30 including any pollster, media consultant, advertising agency,
31 vendor, advisor, or staff member.

1 (e) Makes a payment based on information about the
2 candidate's plans, projects, or needs communicated to a member
3 of the committee or person by the candidate or an agent of the
4 candidate, provided the committee or person uses the
5 information in any way, in whole or in part, either directly
6 or indirectly, to design, prepare, or pay for any specific
7 expenditure or the advertising campaign at issue.

8 (f) After the last day of qualifying for statewide or
9 legislative office, consults about the candidate's plans,
10 projects, or needs in connection with the candidate's pursuit
11 of election to office and the information is used in any way
12 to plan, create, design, or prepare an independent expenditure
13 or advertising campaign, with:

14 1. Any officer, director, employee, or agent of a
15 national, state, or county executive committee of a political
16 party that has made or intends to make expenditures in
17 connection with or contributions to the candidate; or

18 2. Any person whose professional services have been
19 retained by a national, state, or county executive committee
20 of a political party that has made or intends to make
21 expenditures in connection with or contributions to the
22 candidate.

23 (g) After the last day of qualifying for statewide or
24 legislative office, retains the professional services of any
25 person who has provided or is providing those services to the
26 candidate in connection with the candidate's pursuit of
27 election to office.

28 (h) Arranges, coordinates, or directs an expenditure,
29 in any way, with the candidate or an agent of the candidate.

30 Section 2. Subsection (3) of section 106.021, Florida
31 Statutes, is amended to read:

1 106.021 Campaign treasurers; deputies; primary and
2 secondary depositories.--

3 (3) Except for independent expenditures, no
4 contribution or expenditure, including contributions or
5 expenditures of a candidate or of the candidate's family,
6 shall be directly or indirectly made or received in
7 furtherance of the candidacy of any person for nomination or
8 election to political office in the state or on behalf of any
9 political committee except through the duly appointed campaign
10 treasurer of the candidate or political committee. ~~However,~~
11 ~~expenditures may be made directly by any political committee~~
12 ~~or political party regulated by chapter 103 for obtaining~~
13 ~~time, space, or services in or by any communications medium~~
14 ~~for the purpose of jointly endorsing three or more candidates,~~
15 ~~and any such expenditure shall not be considered a~~
16 ~~contribution or expenditure to or on behalf of any such~~
17 ~~candidates for the purposes of this chapter.~~

18 Section 3. Paragraph (a) of subsection (2) of section
19 106.087, Florida Statutes, is amended to read:

20 106.087 Independent expenditures; contribution limits;
21 restrictions on political parties, political committees, and
22 committees of continuous existence.--

23 (2)(a) Any political committee or committee of
24 continuous existence that accepts the use of public funds,
25 equipment, personnel, or other resources to collect dues from
26 its members agrees not to make independent expenditures in
27 support of or opposition to a candidate or elected public
28 official. ~~However, expenditures may be made for the sole~~
29 ~~purpose of jointly endorsing three or more candidates.~~

30 Section 4. Section 106.08, Florida Statutes, is
31 amended to read:

1 106.08 Contributions; limitations on.--

2 (1)(a) Except for political parties, no person,
3 political committee, or committee of continuous existence may,
4 in any election, make contributions in excess of \$500 to any
5 candidate for election to or retention in office or to any
6 political committee supporting or opposing one or more
7 candidates. Candidates for the offices of Governor and
8 Lieutenant Governor on the same ticket are considered a single
9 candidate for the purpose of this section.

10 (b)1. The contribution limits provided in this
11 subsection do not apply to contributions made by a state or
12 county executive committee of a political party ~~regulated by~~
13 ~~chapter 103~~ or to amounts contributed by a candidate to his or
14 her own campaign.

15 2. Notwithstanding the limits provided in this
16 subsection, an unemancipated child under the age of 18 years
17 of age may not make a contribution in excess of \$100 to any
18 candidate or to any political committee supporting one or more
19 candidates.

20 (c) The contribution limits of this subsection apply
21 to each election. For purposes of this subsection, the first
22 primary, second primary, and general election are separate
23 elections so long as the candidate is not an unopposed
24 candidate as defined in s. 106.011(15). However, for the
25 purpose of contribution limits with respect to candidates for
26 retention as a justice of the Supreme Court or judge of a
27 district court of appeal, there is only one election, which is
28 the general election, and with respect to candidates for
29 circuit judge or county court judge, there are only two
30 elections, which are the first primary election and general
31 election.

1 (2) A person, political committee, or committee of
2 continuous existence may not make contributions to the state
3 and county executive committees of a political party,
4 including any subordinate committee of a state or county
5 executive committee of a political party, which contributions,
6 including in-kind contributions, in the aggregate in any
7 calendar year exceed \$5,000.

8 ~~(3)(2)(a)~~ A candidate may not accept contributions
9 from national, state, ~~including any subordinate committee of a~~
10 ~~national, state, or county committee of a political party,~~and
11 county executive committees of a political party, including
12 any subordinate committee of a national, state, or county
13 executive committee of a political party,which contributions,
14 including in-kind contributions,in the aggregate in any
15 calendar year exceed~~\$5,000~~~~\$50,000,~~ ~~no more than \$25,000~~ of
16 ~~which may be accepted prior to the 28-day period immediately~~
17 ~~preceding the date of the general election.~~

18 (b) National, state, and county executive committees
19 of a political party, including any subordinate committee of a
20 national, state, or county executive committee of a political
21 party, may not make contributions to a candidate, which
22 contributions, including in-kind contributions, in the
23 aggregate in any calendar year exceed \$5,000.

24 ~~(b) Polling services, research services, costs for~~
25 ~~campaign staff, professional consulting services, and~~
26 ~~telephone calls are not contributions to be counted toward the~~
27 ~~contribution limits of paragraph (a). Any item not expressly~~
28 ~~identified in this paragraph as nonallocable is a contribution~~
29 ~~in an amount equal to the fair market value of the item and~~
30 ~~must be counted as allocable toward the \$50,000 contribution~~
31 ~~limits of paragraph (a). Nonallocable, in-kind contributions~~

1 ~~must be reported by the candidate under s. 106.07 and by the~~
2 ~~political party under s. 106.29.~~

3 (4)~~(3)~~(a) Any contribution received by a candidate
4 with opposition in an election or by the campaign treasurer or
5 a deputy campaign treasurer of such a candidate on the day of
6 that election or less than 5 days prior to the day of that
7 election must be returned by him or her to the person or
8 committee contributing it and may not be used or expended by
9 or on behalf of the candidate.

10 (b) Except as otherwise provided in paragraph (c), any
11 contribution received by a candidate or by the campaign
12 treasurer or a deputy campaign treasurer of a candidate after
13 the date at which the candidate withdraws his or her
14 candidacy, or after the date the candidate is defeated,
15 becomes unopposed, or is elected to office must be returned to
16 the person or committee contributing it and may not be used or
17 expended by or on behalf of the candidate.

18 (c) With respect to any campaign for an office in
19 which an independent or minor party candidate has filed as
20 required in s. 99.0955 or s. 99.096, but whose qualification
21 is pending a determination by the Department of State or
22 supervisor of elections as to whether or not the required
23 number of petition signatures was obtained:

24 1. The department or supervisor shall, no later than 3
25 days after that determination has been made, notify in writing
26 all other candidates for that office of that determination.

27 2. Any contribution received by a candidate or the
28 campaign treasurer or deputy campaign treasurer of a candidate
29 after the candidate has been notified in writing by the
30 department or supervisor that he or she has become unopposed
31 as a result of an independent or minor party candidate failing

1 to obtain the required number of petition signatures shall be
2 returned to the person, political committee, or committee of
3 continuous existence contributing it and shall not be used or
4 expended by or on behalf of the candidate.

5 (5)~~(4)~~ Any contribution received by the chair,
6 campaign treasurer, or deputy campaign treasurer of a
7 political committee supporting or opposing a candidate with
8 opposition in an election or supporting or opposing an issue
9 on the ballot in an election on the day of that election or
10 less than 5 days prior to the day of that election may not be
11 obligated or expended by the committee until after the date of
12 the election.

13 (6)~~(5)~~ A person may not make any contribution through
14 or in the name of another, directly or indirectly, in any
15 election. Candidates, political committees, and political
16 parties may not solicit contributions from or make
17 contributions to any religious, charitable, civic, or other
18 causes or organizations established primarily for the public
19 good. However, it is not a violation of this subsection for a
20 candidate, political committee, or political party executive
21 committee to make gifts of money in lieu of flowers in memory
22 of a deceased person or for a candidate to continue membership
23 in, or make regular donations from personal or business funds
24 to, religious, political party, civic, or charitable groups of
25 which the candidate is a member or to which the candidate has
26 been a regular donor for more than 6 months. A candidate may
27 purchase, with campaign funds, tickets, admission to events,
28 or advertisements from religious, civic, political party, or
29 charitable groups.

30 (7)~~(6)~~ A political party may not accept any
31 contribution which has been specifically designated for the

1 partial or exclusive use of a particular candidate. Any
2 contribution so designated must be returned to the contributor
3 and may not be used or expended by or on behalf of the
4 candidate.

5 (8)~~(7)~~(a) Any person who knowingly and willfully makes
6 no more than one contribution in violation of subsection (1),
7 subsection (2), or subsection~~(6)~~~~(5)~~, or any person who
8 knowingly and willfully fails or refuses to return any
9 contribution as required in subsection~~(4)~~~~(3)~~, commits a
10 misdemeanor of the first degree, punishable as provided in s.
11 775.082 or s. 775.083. If any corporation, partnership, or
12 other business entity or any political party, political
13 committee, or committee of continuous existence is convicted
14 of knowingly and willfully violating any provision punishable
15 under this paragraph, it shall be fined not less than \$1,000
16 and not more than \$10,000. If it is a domestic entity, it may
17 be ordered dissolved by a court of competent jurisdiction; if
18 it is a foreign or nonresident business entity, its right to
19 do business in this state may be forfeited. Any officer,
20 partner, agent, attorney, or other representative of a
21 corporation, partnership, or other business entity or of a
22 political party, political committee, or committee of
23 continuous existence who aids, abets, advises, or participates
24 in a violation of any provision punishable under this
25 paragraph commits a misdemeanor of the first degree,
26 punishable as provided in s. 775.082 or s. 775.083.

27 (b) Any person who knowingly and willfully makes two
28 or more contributions in violation of subsection (1),
29 subsection (2), or subsection~~(6)~~~~(5)~~ commits a felony of the
30 third degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084. If any corporation, partnership, or

1 other business entity or any political party, political
2 committee, or committee of continuous existence is convicted
3 of knowingly and willfully violating any provision punishable
4 under this paragraph, it shall be fined not less than \$10,000
5 and not more than \$50,000. If it is a domestic entity, it may
6 be ordered dissolved by a court of competent jurisdiction; if
7 it is a foreign or nonresident business entity, its right to
8 do business in this state may be forfeited. Any officer,
9 partner, agent, attorney, or other representative of a
10 corporation, partnership, or other business entity, or of a
11 political committee, committee of continuous existence, or
12 political party who aids, abets, advises, or participates in a
13 violation of any provision punishable under this paragraph
14 commits a felony of the third degree, punishable as provided
15 in s. 775.082, s. 775.083, or s. 775.084.

16 (9)~~(8)~~ Except when otherwise provided in subsection
17 ~~(8)~~~~(7)~~, any person who knowingly and willfully violates any
18 provision of this section shall, in addition to any other
19 penalty prescribed by this chapter, pay to the state a sum
20 equal to twice the amount contributed in violation of this
21 chapter. Each campaign treasurer shall pay all amounts
22 contributed in violation of this section to the state for
23 deposit in the General Revenue Fund.

24 (10)~~(9)~~ This section does not apply to the transfer of
25 funds between a primary campaign depository and a savings
26 account or certificate of deposit or to any interest earned on
27 such account or certificate.

28 Section 5. Paragraph (a) of subsection (1) of section
29 106.087, Florida Statutes, is amended to read:

30
31

1 chair, vice chair, campaign treasurer, deputy treasurer, or
2 other officer of any political committee; agent or person
3 acting on behalf of any candidate or political committee; or
4 other person who knowingly and willfully:

5 (a) Accepts a contribution in excess of the limits
6 prescribed by s. 106.08;

7
8 is guilty of a misdemeanor of the first degree, punishable as
9 provided in s. 775.082 or s. 775.083.

10 Section 8. This act shall take effect January 1 of the
11 year after the year in which enacted.

12
13 *****

14 HOUSE SUMMARY

15 Revises definitions of the terms "contribution,"
16 "independent expenditure," and "political advertisement"
17 and defines the term "in coordination with." Eliminates
18 provisions that authorize the unrestricted expenditure of
19 funds for the purpose of jointly endorsing three or more
20 candidates. Provides a specified annual aggregate
21 contribution limit to contributions from any one person,
22 political committee, or committee of continuous existence
23 to a political party and to contributions from a
24 political party to a candidate. See bill for details.
25
26
27
28
29
30
31