

By Representative Carlton

1 A bill to be entitled
2 An act relating to elections; amending s.
3 106.011, F.S.; defining the term "affiliated
4 corporations"; amending s. 106.08, F.S.;
5 providing a limitation on campaign
6 contributions of affiliated corporations;
7 prohibiting corporations, partnerships, or
8 other business entities from coercing employees
9 through specified acts to make a contribution
10 in support of or in opposition to any
11 candidate, issue, political party, political
12 committee, or committee of continuous
13 existence; prohibiting such business entities
14 from giving anything of value to an employee to
15 effect a campaign contribution or to reimburse
16 an employee for making a campaign contribution;
17 providing penalties; creating s. 106.084, F.S.;
18 requiring any person who, as a candidate,
19 receives and fails to return an illegal
20 contribution to pay the amount of the
21 contribution to the Comptroller; authorizing
22 the use of certain funds for such purpose,
23 including funds donated specifically for such
24 purpose; providing donation limits and
25 prohibiting donation or acceptance of certain
26 funds; providing reporting requirements;
27 providing notice and payment deadlines;
28 providing penalties; providing an effective
29 date.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (18) is added to section
2 106.011, Florida Statutes, to read:

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

6 (18) "Affiliated corporations" means two or more
7 corporations that:

8 (a) File consolidated federal income tax returns under
9 the Internal Revenue Code or consolidated state income tax
10 returns under s. 220.131;

11 (b) Share the majority of members on their boards of
12 directors;

13 (c) Share two or more officers;

14 (d) Are owned or controlled by the same majority
15 shareholder or shareholders;

16 (e) Are in a parent subsidiary relationship; or

17 (f) Have a relationship in which one corporation
18 directly or indirectly owns or controls the management and
19 policies of one or more other corporations through the
20 ownership of voting shares or by contract, arrangement,
21 understanding, relationship, or any other factor establishing
22 control.

23 Section 2. Paragraph (a) of subsection (1) and
24 subsection (5) of section 106.08, Florida Statutes, are
25 amended to read:

26 106.08 Contributions; limitations on.--

27 (1)(a) Except for political parties, no person,
28 political committee, or committee of continuous existence may,
29 in any election, make contributions in excess of \$500 to any
30 candidate for election to or retention in office or to any
31 political committee supporting or opposing one or more

1 candidates. Candidates for the offices of Governor and
2 Lieutenant Governor on the same ticket are considered a single
3 candidate for the purpose of this section. Affiliated
4 corporations are considered to be one person for the purpose
5 of this paragraph.

6 (5)(a) A person may not make any contribution through
7 or in the name of another, directly or indirectly, in any
8 election. It is a violation of this paragraph for any
9 corporation, partnership, or other business entity to:

10 1. Give money or any bonus, award, or thing of value
11 to an employee for the purpose of effecting a contribution in
12 support of or in opposition to any candidate, issue, political
13 party, political committee, or committee of continuous
14 existence;

15 2. Give money or any bonus, award, or thing of value
16 to an employee for the purpose of reimbursing the employee, in
17 whole or in part, for making a contribution in support of or
18 in opposition to any candidate, issue, political party,
19 political committee, or committee of continuous existence; or

20 3. By bribery, menace, threat, or other corruption,
21 including the possibility of termination of employment, either
22 directly or indirectly mandate that an employee make a
23 contribution in support of or in opposition to any candidate,
24 issue, political party, political committee, or committee of
25 continuous existence;

26
27 and the corporation, partnership, or other business entity so
28 doing shall be the party subject to the penalties provided in
29 subsections (7) and (8) for the contribution made by an
30 employee in violation of this paragraph.

31

1 (b) Candidates, political committees, and political
2 parties may not solicit contributions from or make
3 contributions to any religious, charitable, civic, or other
4 causes or organizations established primarily for the public
5 good. However, it is not a violation of this subsection for a
6 candidate, political committee, or political party executive
7 committee to make gifts of money in lieu of flowers in memory
8 of a deceased person or for a candidate to continue membership
9 in, or make regular donations from personal or business funds
10 to, religious, political party, civic, or charitable groups of
11 which the candidate is a member or to which the candidate has
12 been a regular donor for more than 6 months. A candidate may
13 purchase, with campaign funds, tickets, admission to events,
14 or advertisements from religious, civic, political party, or
15 charitable groups.

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

1 partnership, or other business entity or of a political party,
2 political committee, or committee of continuous existence who
3 aids, abets, advises, or participates in a violation of any
4 provision punishable under this paragraph commits a
5 misdemeanor of the first degree, punishable as provided in s.
6 775.082 or s. 775.083.

7 (b) Any person who knowingly and willfully makes two
8 or more contributions in violation of subsection (1) or
9 subsection (5) commits a felony of the third degree,
10 punishable as provided in s. 775.082, s. 775.083, or s.
11 775.084. If any corporation, partnership, or other business
12 entity or any political party, political committee, or
13 committee of continuous existence is convicted of knowingly
14 and willfully violating any provision punishable under this
15 paragraph, it shall be fined not less than \$10,000 and not
16 more than \$50,000. If it is a domestic entity, it may be
17 ordered dissolved by a court of competent jurisdiction; if it
18 is a foreign or nonresident business entity, its right to do
19 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 committee, committee of continuous existence, or
23 political party who aids, abets, advises, or participates in a
24 violation of any provision punishable under this paragraph
25 commits a felony of the third degree, punishable as provided
26 in s. 775.082, s. 775.083, or s. 775.084.

27 (8) Except when otherwise provided in subsection (7),
28 any person who knowingly and willfully violates any provision
29 of this section shall, in addition to any other penalty
30 prescribed by this chapter, pay to the state a sum equal to
31 twice the amount contributed in violation of this chapter.

1 Each campaign treasurer shall pay all amounts contributed in
2 violation of this section to the state for deposit in the
3 General Revenue Fund.

4 Section 3. Section 106.084, Florida Statutes, is
5 created read:

6 106.084 Failure to return illegal contribution;
7 payment to Comptroller; requirements; penalties.--

8 (1) Notwithstanding any requirement of willfulness
9 under s. 106.25(3), any person who, as a candidate, receives
10 and fails to return within 30 days of receipt any contribution
11 found to be in violation of this chapter must pay to the
12 Comptroller a sum equal to the amount of such contribution, to
13 be deposited in the General Revenue Fund. For purposes of this
14 section, any contribution received by the candidate's campaign
15 treasurer or by any other person on behalf of the candidate
16 shall be considered a contribution received by the candidate.
17 Notwithstanding any other provision of this chapter, any
18 person required to pay an amount under this section may draw
19 upon any one or more of the following sources to pay the
20 amount due:

21 (a) Funds on deposit in any current campaign
22 depository maintained by or on behalf of the person who, as a
23 candidate, received the illegal contribution.

24 (b) Funds on deposit in an office account of the
25 person who, as a candidate, received the illegal contribution.

26 (c) Funds raised for the specific purpose of paying
27 the amount due under this section, not to exceed \$500 per
28 person. The contributor who made the illegal contribution for
29 which the like amount is due under this section is prohibited
30 from providing any funds to the person owing the amount due,
31 and the person owing the amount due may not accept any such

1 funds. Funds raised under this paragraph must be kept in a
2 separate account for that purpose only, and all such deposits
3 must be accompanied by a bank deposit slip containing the name
4 of each person donating any such funds and the amount donated.

5 (d) Personal funds.

6 (2)(a) All funds received for the purpose of paying
7 any amount due under this section must be reported to the
8 filing officer, with all sources and the amounts from each
9 source being reported as if the funds were contributions under
10 s. 106.07(4). Such report must be separate from any other
11 report and must clearly state that it is for the sole purpose
12 of paying an amount due under this section. The report shall
13 be due no later than 10 days after the payment required by
14 this section is made to the Comptroller.

15 (b) Any funds received pursuant to this section but
16 not used to pay an amount due shall be disposed of in any
17 manner authorized for disposition of surplus funds under s.
18 106.141(4)(a)1.-2.

19 (3) The clerk of the judicial or administrative body
20 determining a violation shall notify any candidate or former
21 candidate found to have received an illegal contribution
22 within 10 days of the determination. The candidate or former
23 candidate shall make the required payment to the Comptroller
24 no later than 90 days from the exhaustion of all appellate
25 remedies by the violator.

26 (4)(a) Any person who accepts a donation of funds from
27 a former contributor prohibited in paragraph (1)(c) from
28 making a donation of funds to such person, or any former
29 contributor prohibited in paragraph (1)(c) from donating funds
30 to a person owing an amount due under this section who donates
31 or attempts to donate any such funds, commits a felony of the

1 third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084. If any corporation, partnership, or
3 other business entity or any political party, political
4 committee, or committee of continuous existence is convicted
5 of such a violation, it shall be fined not less than \$10,000
6 and not more than \$50,000. If it is a domestic entity, it may
7 be ordered dissolved by a court of competent jurisdiction; if
8 it is a foreign or nonresident business entity, its right to
9 do business in this state may be forfeited. Any officer,
10 partner, agent, attorney, or other representative of a
11 corporation, partnership, or other business entity, or of a
12 political committee, committee of continuous existence, or
13 political party who aids, abets, advises, or participates in
14 such a violation commits a felony of the third degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084.

17 (b) Any person who donates or accepts an amount in
18 excess of the limit provided in paragraph (1)(c) commits a
19 misdemeanor of the first degree, punishable as provided in s.
20 775.082 or s. 775.083.

21 (c) Any person who donates funds under this section
22 through or in the name of another, directly or indirectly,
23 commits a misdemeanor of the first degree, punishable as
24 provided in s. 775.082 or s. 775.083.

25 Section 4. This act shall take effect July 1 of the
26 year in which enacted.

27
28
29
30
31

548-125A-98

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

HOUSE SUMMARY

Defines the term "affiliated corporations" and provides a limitation on campaign contributions of affiliated corporations. Prohibits corporations, partnerships, or other business entities from coercing employees through specified acts to make a contribution in support of or in opposition to any candidate, issue, political party, political committee, or committee of continuous existence. Prohibits such business entities from giving anything of value to an employee to effect a campaign contribution or to reimburse an employee for making a campaign contribution. Requires any person who, as a candidate, receives and fails to return an illegal contribution to pay the amount of the contribution to the Comptroller. Provides notice and payment deadlines. Authorizes the use of certain funds to pay such amount, including funds donated specifically for such purpose. Provides donation limits and prohibits donation or acceptance of certain funds. Provides reporting requirements with respect to such funds. Provides penalties. See bill for details.