

By the Committee on Election Reform and Representative  
Miller

1                                   A bill to be entitled  
2           An act relating to elections; amending s.  
3           106.011, F.S.; redefining the term "independent  
4           expenditure"; amending s. 106.08, F.S.,  
5           relating to limitations on campaign  
6           contributions; revising a provision relating to  
7           the limit on contributions a candidate may  
8           receive from a political party; revising  
9           provisions relating to the return of  
10          contributions by unopposed candidates; amending  
11          s. 106.085, F.S.; revising notice requirements  
12          for certain independent expenditures; applying  
13          such requirements to political parties;  
14          providing penalties; creating s. 106.087, F.S.;  
15          prohibiting political parties that accept  
16          filing fees from making independent  
17          expenditures; providing penalties; amending s.  
18          106.29, F.S.; prohibiting a political party  
19          from contributing to a candidate more than the  
20          candidate is authorized to accept from the  
21          party; providing penalties; providing  
22          severability; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Subsection (5) of section 106.011, Florida  
27 Statutes, is amended to read:

28           106.011 Definitions.--As used in this chapter, the  
29 following terms have the following meanings unless the context  
30 clearly indicates otherwise:

31

1           (5)(a) "Independent expenditure" means an expenditure  
2 by a person for the purpose of advocating the election or  
3 defeat of a candidate or the approval or rejection of an  
4 issue, which expenditure is not controlled by, coordinated  
5 with, or made upon consultation with, any candidate, political  
6 committee, or agent of such candidate or committee.

7           (b) An expenditure for the ~~such~~ purpose of advocating  
8 the election or defeat of a candidate or the approval or  
9 rejection of an issue by a person having a contract with the  
10 candidate, political committee, or agent of such candidate or  
11 committee in a given election period shall not be deemed an  
12 independent expenditure.

13           (c)1. An expenditure for the purpose of advocating the  
14 election or defeat of a candidate which is made by an  
15 executive committee of a political party shall not be  
16 considered an independent expenditure if the committee  
17 participates in joint fundraising activities with the  
18 candidate; participates in the solicitation or receipt of any  
19 contribution on behalf of the candidate; or communicates with  
20 the candidate or an agent of the candidate, including any  
21 pollster, media consultant, vendor, advisor, or staff member,  
22 concerning advertising, message, allocation of resources,  
23 fundraising, or other campaign matters related to the  
24 candidate's campaign, including campaign operations, staffing,  
25 tactics, or strategy.

26           2. For purposes of this paragraph, the executive  
27 committee and all other subordinate committees of a national  
28 political party, the state executive committee of that  
29 political party, and the county executive committees of that  
30 political party shall be considered a single entity.

31

1           Section 2. Paragraph (a) of subsection (2) and  
2 subsection (3) of section 106.08, Florida Statutes, are  
3 amended to read:

4           106.08 Contributions; limitations on.--

5           (2)(a) A candidate may not accept contributions from  
6 national, state, and county executive committees of a  
7 political party, including any subordinate committee of a  
8 national or state committee or executive committee of a  
9 political party and any legal entity affiliated therewith,  
10 which contributions in the aggregate exceed \$50,000, no more  
11 than \$25,000 of which may be accepted prior to the 28-day  
12 period immediately preceding the date of the general election.

13           (3)(a) Any contribution received by a candidate with  
14 opposition in an election or the campaign treasurer or a  
15 deputy treasurer of such a candidate on the day of that  
16 election or less than 5 days prior to the day of that election  
17 shall be returned by him or her to the person or committee  
18 contributing it and shall not be used or expended by or on  
19 behalf of the candidate.

20           (b) Except as otherwise provided in paragraph (c), any  
21 contribution received by a candidate or the campaign treasurer  
22 or a deputy treasurer of a candidate after the date at which  
23 the candidate withdraws his or her candidacy, or after the  
24 date the candidate is defeated, becomes unopposed, or is  
25 elected to office shall be returned to the person or political  
26 committee contributing it and shall not be used or expended by  
27 or on behalf of the candidate.

28           (c) With respect to any campaign for an office in  
29 which an independent candidate has filed as required in s.  
30 99.0955, but whose qualification is pending a determination by  
31 the Department of State or supervisor of elections as to

1 whether or not the required number of petition signatures was  
2 obtained:

3 1. The department or supervisor shall, no later than 3  
4 days after that determination has been made, notify in writing  
5 all other candidates for that office of that determination;  
6 and

7 2. Any contribution received by a candidate or the  
8 campaign treasurer or deputy campaign treasurer of a candidate  
9 after the candidate has been notified in writing by the  
10 department or supervisor that the candidate has become  
11 unopposed as a result of an independent candidate failing to  
12 obtain the required number of petition signatures must be  
13 returned to the person, political committee, or committee of  
14 continuous existence contributing it and may not be used or  
15 expended by or on behalf of the candidate.

16 Section 3. Section 106.085, Florida Statutes, is  
17 amended to read:

18 106.085 Independent expenditures; unfair surprise  
19 prohibited; notice requirements;penalty.--

20 (1) Any individual, group, organization, political  
21 party, including any subordinate committee of a national or  
22 state committee or executive committee of a political party or  
23 any legal entity affiliated therewith,or committee making an  
24 independent expenditure in excess of \$1,000 on behalf of or in  
25 opposition to a candidate shall deliver notice in writing of  
26 such independent expenditure, as well as the amount of such  
27 expenditure and a detailed description of the media type or  
28 use of such expenditure, within 24 hours after obligating any  
29 funds for such expenditure. However, the notice of the  
30 obligation of the expenditure must be made at least 14 days  
31 prior to an election.An expenditure is obligated upon the

1 purchase of any political advertising or the entering into any  
2 agreement, either oral or written, to purchase any political  
3 advertising. Such notice shall be delivered to all of the  
4 candidates in the affected race and to the qualifying officer  
5 of such candidates. The notice shall specifically state the  
6 name of the candidate whom the independent expenditure is  
7 designed to support or oppose. For purposes of this  
8 subsection, notice shall include, but is not limited to,  
9 personal hand delivery or overnight mail. Each new expenditure  
10 shall require the delivery or filing of an additional new  
11 notice. This subsection does not apply to a primary election  
12 if the candidate is unopposed in the primary election.

13 (2)(a) If the political advertisement required to be  
14 noticed under subsection (1) is to be broadcast over any  
15 television, including cable television, or radio station, a  
16 copy of the actual advertisement must be provided with the  
17 notification, along with a listing of the stations airing the  
18 advertisement.

19 (b) If the political advertisement required to be  
20 noticed under subsection (1) is to be communicated through  
21 means other than the spoken word, a duplicate reproduced from  
22 the original advertisement to be used must be provided with  
23 the notification. The duplicate must clearly depict a copy of  
24 the pictures, artwork, and text used in the advertisement.

25 (c) If the political advertisement required to be  
26 noticed under subsection (1) is to be a telephone  
27 solicitation, a copy of the script of the telephone  
28 solicitation must be provided with the notification, along  
29 with the number of intended recipients.

30 (3)(2) A person who violates any provision of this  
31 section shall be liable for a civil fine of up to \$5,000 to be

1 determined by the Florida Elections Commission or the entire  
2 ~~an amount equal to 10 percent~~ of the expenditure not noticed,  
3 whichever is greater.

4 (4) This section does not prohibit a person from  
5 making an independent expenditure in support of or in  
6 opposition to any candidate or issue, unless otherwise  
7 prohibited by law; expressing his or her opinion on any issue;  
8 or purchasing any political advertisement or campaign  
9 material.

10 Section 4. Section 106.087, Florida Statutes, is  
11 created to read:

12 106.087 Independent expenditures; restrictions on  
13 political parties.--Notwithstanding any provision of s.  
14 99.061(2), s. 99.092(1), or s. 99.103 to the contrary, any  
15 political party that accepts the return of any candidate  
16 filing fees from any supervisor of elections or the Department  
17 of State after the close of qualifying for an election cycle  
18 is prohibited from making any independent expenditure on  
19 behalf of or in opposition to any candidate during the  
20 remainder of the election cycle for which those filing fees  
21 were collected. Any national or state political party, or  
22 state or county executive committee, including any subordinate  
23 committee or legal entity affiliated therewith, or any  
24 political party or executive committee that violates the  
25 provisions of this section shall, in addition to any other  
26 penalty prescribed by this chapter, pay to the state a sum  
27 equal to three times the amount involved in the illegal  
28 expenditure. The treasurer of the applicable committee or  
29 legal entity shall pay all amounts contributed in violation of  
30 this section to the state for deposit in the General Revenue  
31 Fund.

1           Section 5. Section 106.29, Florida Statutes is amended  
2 to read:

3           106.29 Reports by political parties; restrictions  
4 ~~assessment~~ on contributions and expenditures.--

5           (1) The state executive committee and each county  
6 executive committee of each political party regulated by  
7 chapter 103 shall file regular reports of all contributions  
8 received and all expenditures made by such committee. Such  
9 reports shall contain the same information as do reports  
10 required of candidates by s. 106.07 and shall be filed on the  
11 10th day following the end of each calendar quarter, except  
12 that, during the period from the last day for candidate  
13 qualifying until the general election, such reports shall be  
14 filed on the Friday immediately preceding the first primary  
15 election, the second primary election, and the general  
16 election. Each state executive committee shall file the  
17 original and one copy of its reports with the Division of  
18 Elections. Each county executive committee shall file its  
19 reports with the supervisor of elections in the county in  
20 which such committee exists. Any political party failing to  
21 file a report on the designated due date shall be subject to a  
22 fine as provided in s. 106.07 for submitting late reports. No  
23 separate fine shall be assessed for failure to file a copy of  
24 any report required by this section.

25           (2) The chair and treasurer of each committee shall  
26 certify as to the correctness of each report filed by them on  
27 behalf of such committee. Any committee chair or treasurer who  
28 certifies the correctness of any report while knowing that  
29 such report is incorrect, false, or incomplete commits is  
30 ~~guilty of~~ a felony of the third degree, punishable as provided  
31 in s. 775.082, s. 775.083, or s. 775.084.

1           (3) Any contribution received by a state or county  
2 committee less than 5 days before an election shall not be  
3 used or expended in behalf of any candidate, issue, or  
4 political party participating in such election.

5           (4) No state or county executive committee, in the  
6 furtherance of any candidate or political party, directly or  
7 indirectly, shall give, pay, or expend any money, give or pay  
8 anything of value, authorize any expenditure, or become  
9 pecuniarily liable for any expenditure prohibited by this  
10 chapter. However, the contribution of funds by one executive  
11 committee to another, or to established party organizations  
12 for legitimate party or campaign purposes, ~~or to individual~~  
13 ~~candidates of that party in general elections in amounts~~  
14 ~~exceeding those set forth in s. 106.08~~ is not prohibited, but  
15 all such contributions shall be recorded and accounted for in  
16 the reports of the contributor and recipient.

17           (5) The national, state, and county executive  
18 committees of a political party, including any subordinate  
19 committee of a national or state committee or executive  
20 committee of a political party and any legal entity affiliated  
21 therewith, may not make contributions to any candidate which,  
22 in the aggregate, are in excess of the limits the candidate is  
23 authorized to accept in s. 106.08(2).

24           Section 6. If any provision of this act or the  
25 application thereof to any person or circumstance is held  
26 invalid, the invalidity shall not affect other provisions or  
27 applications of the act which can be given effect without the  
28 invalid provision or application, and to this end the  
29 provisions of this act are declared severable.

30           Section 7. This act shall take effect January 1, 1998.  
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