

By the Committees on Governmental Operations, Election Reform and Representatives Detert, Turnbull, Logan, Wiles, Stafford, Heyman, Ritter and Brown

1 A bill to be entitled
2 An act relating to campaign financing; amending
3 s. 104.31, F.S.; prohibiting the use of public
4 employees or facilities for purposes of
5 promoting or opposing candidates or issues or
6 supporting public officials; providing
7 exceptions; providing a penalty; amending s.
8 106.011, F.S.; revising definitions of the
9 terms "political committee," "contribution,"
10 "expenditure," and "political advertisement";
11 amending s. 106.03, F.S.; requiring additional
12 information for registration of political
13 committees; adding penalties; amending ss.
14 106.04 and 106.07, F.S.; requiring reports of
15 committees of continuous existence and
16 political committees to include certain
17 information if a majority of the committee's
18 contributors share a common economic or special
19 interest; prohibiting committees of continuous
20 existence from making certain expenditures
21 without first registering as a political
22 committee; providing effective dates.

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

25
26 Section 1. Effective January 1, 2000, subsections (2)
27 and (3) of section 104.31, Florida Statutes, are renumbered as
28 subsections (3) and (4), respectively, and a new subsection
29 (2) is added to said section to read:

30 104.31 Political activities of state, county, and
31 municipal officers and employees.--

1 (2) No public officer, employee of any agency, or
2 local government attorney shall use or authorize the use of
3 any employee of a public office or agency during working hours
4 or any of the facilities of a public office or agency,
5 directly or indirectly, for the purpose of promoting or
6 opposing a candidate or an issue, as defined in s. 106.011(7),
7 or for any testimonial, "thank you" promotion, or other form
8 of paid media advertising on behalf of a public official. For
9 purposes of this subsection, facilities of a public office or
10 agency include, but are not limited to, stationery, postage,
11 machines, equipment, vehicles, office space, publications of
12 the office or agency, and clientele lists of persons served by
13 the office or agency. This subsection does not apply to the
14 following activities:

15 (a) Action taken at an open public meeting by members
16 of an elected legislative body, as defined in s. 447.203(10),
17 to express a collective decision, or to actually vote upon a
18 motion, proposal, resolution, order, or ordinance, or to
19 support or oppose an issue, as defined in s. 106.011(7).

20 (b) Lobbying before a legislative body for the purpose
21 of advocating the official position of an agency or public
22 office on matters of public interest, to the extent otherwise
23 permitted by law, specific appropriation, or agency policy.

24 (c) A statement by an elected official in support of
25 or in opposition to an issue, as defined in s. 106.011(7), at
26 an open press conference or in response to a specific inquiry.

27 (d) The use of a publicly owned or publicly controlled
28 building or office for a campaign for public office, or for
29 the promotion of an issue or legislation, where the
30 governmental entity has clearly adopted and made generally
31

1 known a policy establishing the property as a public forum
2 open to all on equal terms on a nondiscriminatory basis.

3 (e) An elected official's communication during the
4 normal course of business with his or her constituents in
5 which information about legislative or public issues is
6 provided. For purposes of this paragraph, communication
7 includes, but is not limited to, providing information via
8 Internet World Wide Web home pages, newsletters, and other
9 periodic communications such as letters, surveys,
10 questionnaires, flyers, or postcards.

11 Section 2. Subsections (1), (3), (4), and (17) of
12 section 106.011, Florida Statutes, are amended to read:

13 106.011 Definitions.--As used in this chapter, the
14 following terms have the following meanings unless the context
15 clearly indicates otherwise:

16 (1) "Political committee" means a combination of two
17 or more individuals, or a person other than an individual, the
18 primary or incidental purpose of which is to support or oppose
19 any candidate, issue, or political party, which accepts
20 contributions or makes expenditures during a calendar year in
21 an aggregate amount in excess of \$500.†"Political committee"
22 also means the sponsor of a proposed constitutional amendment
23 by initiative who intends to seek the signatures of registered
24 electors."Political committee" also includes a combination of
25 two or more individuals or a person other than an individual
26 which anticipates spending funds, or makes expenditures, for
27 political advertising in support of or in opposition to an
28 elected public official during a calendar year in an aggregate
29 amount in excess of \$500.Organizations which are certified by
30 the Department of State as committees of continuous existence
31 pursuant to s. 106.04, national political parties, and the

1 state and county executive committees of political parties
2 regulated by chapter 103 shall not be considered political
3 committees for the purposes of this chapter. Corporations
4 regulated by chapter 607 or chapter 617 or other business
5 entities formed for purposes other than to support or oppose
6 issues or candidates are not political committees if their
7 political activities are limited to contributions to
8 candidates, political parties, or political committees or
9 expenditures in support of or opposition to an issue from
10 corporate or business funds and if no contributions are
11 received by such corporations or business entities.

12 (3) "Contribution" means:

13 (a) A gift, subscription, conveyance, deposit, loan,
14 payment, or distribution of money or anything of value,
15 including contributions in kind having an attributable
16 monetary value in any form, made for the purpose of
17 influencing the results of an election.

18 (b) A transfer of funds between political committees,
19 between committees of continuous existence, or between a
20 political committee and a committee of continuous existence.

21 (c) The payment, by any person other than a candidate
22 or political committee, of compensation for the personal
23 services of another person which are rendered to a candidate
24 or political committee without charge to the candidate or
25 committee for such services.

26 (d) The transfer of funds by a campaign treasurer or
27 deputy campaign treasurer between a primary depository and a
28 separate interest-bearing account or certificate of deposit,
29 and the term includes any interest earned on such account or
30 certificate.

31

1 (e) Any funds received by a political committee which
2 are used or intended to be used, directly or indirectly, to
3 pay for a political advertisement supporting or opposing an
4 elected public official.

5
6 Notwithstanding the foregoing meanings of "contribution," the
7 word shall not be construed to include services, including,
8 but not limited to, legal and accounting services, provided
9 without compensation by individuals volunteering a portion or
10 all of their time on behalf of a candidate or political
11 committee. This definition shall not be construed to include
12 editorial endorsements.

13 (4) "Expenditure" means a purchase, payment,
14 distribution, loan, advance, transfer of funds by a campaign
15 treasurer or deputy campaign treasurer between a primary
16 depository and a separate interest-bearing account or
17 certificate of deposit, or gift of money or anything of value
18 made for the purpose of influencing the results of an election
19 or for purchasing a political advertisement supporting or
20 opposing an elected public official. However, "expenditure"
21 does not include a purchase, payment, distribution, loan,
22 advance, or gift of money or anything of value made for the
23 purpose of influencing the results of an election when made by
24 an organization, in existence prior to the time during which a
25 candidate qualifies or an issue is placed on the ballot for
26 that election, for the purpose of printing or distributing
27 such organization's newsletter, containing a statement by such
28 organization in support of or opposition to a candidate or
29 issue, which newsletter is distributed only to members of such
30 organization.

31

1 (17)(a) "Political advertisement" means a paid
2 expression in any communications media prescribed in
3 subsection (13), whether radio, television, newspaper,
4 magazine, periodical, campaign literature, direct mail, or
5 display or by means other than the spoken word in direct
6 conversation, which shall support or oppose any candidate,
7 elected public official, or issue. In addition, an
8 advertisement is presumed to be a political advertisement if
9 it is a paid expression in any communications media described
10 in subsection (13), whether radio, television, newspaper,
11 magazine, periodical, campaign literature, direct mail, or
12 display, or by means other than the spoken word in direct
13 conversation which substantially mentions or shows a clearly
14 identifiable candidate for election or reelection and is
15 distributed at any point during the period following the last
16 day of qualifying for that candidacy through the ensuing
17 general election and which, when examined by a reasonable
18 person, would be understood as a communication intended to
19 affect the outcome of an election and for which aggregate
20 expenditures on like advertisements exceed \$1,000.

21 (b) ~~However,~~ "Political advertisement" does not
22 include:

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

29 2. ~~(b)~~ Editorial endorsements by any newspaper, radio
30 or television station, or other recognized news medium.

31

1 3. A paid expression in any communications media which
2 mentions or shows a clearly identifiable candidate for
3 election or reelection which:

4 a. Advertises a business rather than the candidate, is
5 paid for out of funds of that business, and is similar to
6 other advertisements for that business which have mentioned or
7 shown the candidate and have been distributed regularly over a
8 period of at least 1 year before the qualifying period for
9 that candidacy; or

10 b. Is distributed or broadcast only to areas other
11 than the geographical area of the electorate for that
12 candidacy.

13 Section 3. Section 106.03, Florida Statutes, is
14 amended to read:

15 106.03 Registration of political committees.--

16 (1) Each political committee which anticipates
17 receiving contributions or making expenditures during a
18 calendar year in an aggregate amount exceeding \$500 or which
19 is seeking the signatures of registered electors in support of
20 an initiative shall file a statement of organization as
21 provided in subsection(4)~~(3)~~ within 10 days after its
22 organization or, if later, within 10 days after the date on
23 which it has information which causes the committee to
24 anticipate that it will receive contributions or make
25 expenditures in excess of \$500. If a political committee is
26 organized within 10 days of any election, it shall immediately
27 file the statement of organization required by this section.

28 (2) The statement of organization shall include:

29 (a) The name and address of the committee;

30 (b) The names, addresses, and relationships of
31 affiliated or connected organizations;

1 (c) The area, scope, or jurisdiction of the committee;

2 (d) The name, address, ~~and~~ position, and principal
3 employer of the custodian of books and accounts;

4 (e) The name, address, ~~and~~ position, and principal
5 employer of each other principal officer ~~officers~~, including
6 officers and members of the finance committee, if any;

7 (f) The name, address, office sought, and party
8 affiliation of:

9 1. Each candidate whom the committee is supporting;

10 2. Any other individual, if any, whom the committee is
11 supporting for nomination for election, or election, to any
12 public office whatever;

13 (g) Any issue or issues such organization is
14 supporting or opposing;

15 (h) If the committee is supporting the entire ticket
16 of any party, a statement to that effect and the name of the
17 party;

18 (i) A statement of whether the committee is a
19 continuing one;

20 (j) Plans for the disposition of residual funds which
21 will be made in the event of dissolution;

22 (k) A listing of all banks, safe-deposit boxes, or
23 other depositories used for committee funds; and

24 (l) A statement of the reports required to be filed by
25 the committee with federal officials, if any, and the names,
26 addresses, and positions of such officials.

27 (3)(a) The name of the committee provided in the
28 statement of organization must include the name of the
29 corporation, labor union, professional association, political
30 committee, committee of continuous existence, or other
31 business entity whose officials, employees, agents, or

1 members, directly or indirectly, established or organized the
2 committee, if any.

3 (b) If the name of the committee provided in the
4 statement or organization does not include the name of a
5 corporation, labor union, professional association, political
6 committee, committee of continuous existence, or other
7 business entity, the name must include the economic or special
8 interest, if identifiable, principally represented by the
9 committee's organizers or intended to be advanced by the
10 committee's receipts.

11 (c) Any person who knowingly and willfully violates
12 this subsection shall be fined not less than \$1,000 and not
13 more than \$10,000 for each violation. Any officer, partner,
14 agent, attorney, or other representative of a corporation,
15 labor union, professional association, political committee,
16 committee of continuous existence, or other business entity
17 who aids, abets, advises, or participates in a violation of
18 any provision of this subsection shall be fined not less than
19 \$1,000 and not more than \$10,000 for each violation.

20 (d) Any committee organized before January 1, 2000,
21 shall have until April 1, 2000, to amend its name, if
22 necessary, to comply with the requirements of this subsection.

23 (4)(3)(a) A political committee which is organized to
24 support or oppose statewide, legislative, or multicounty
25 candidates or issues to be voted upon on a statewide or
26 multicounty basis shall file a statement of organization with
27 the Division of Elections.

28 (b) Except as provided in paragraph (c), a political
29 committee which is organized to support or oppose candidates
30 or issues to be voted on in a countywide election or
31 candidates or issues in any election held on less than a

1 countywide basis shall file a statement of organization with
2 the supervisor of elections of the county in which such
3 election is being held.

4 (c) A political committee which is organized to
5 support or oppose only candidates for municipal office or
6 issues to be voted on in a municipal election shall file a
7 statement of organization with the officer before whom
8 municipal candidates qualify.

9 (d) Any political committee which would be required
10 under this subsection to file a statement of organization in
11 two or more locations by reason of the committee's intention
12 to support or oppose candidates or issues at state or
13 multicounty and local levels of government need file only with
14 the Division of Elections.

15 (5)~~(4)~~ Any change in information previously submitted
16 in a statement of organization shall be reported to the agency
17 or officer with whom such committee is required to register
18 pursuant to subsection(4)~~(3)~~, within 10 days following the
19 change.

20 (6)~~(5)~~ Any committee which, after having filed one or
21 more statements of organization, disbands or determines it
22 will no longer receive contributions or make expenditures
23 during the calendar year in an aggregate amount exceeding \$500
24 shall so notify the agency or officer with whom such committee
25 is required to file the statement of organization.

26 (7)~~(6)~~ If the filing officer finds that a political
27 committee has filed its statement of organization consistent
28 with the requirements of subsection (2), it shall notify the
29 committee in writing that it has been registered as a
30 political committee. If the filing officer finds that a
31 political committee's statement of organization does not meet

1 the requirements of subsection (2), it shall notify the
2 committee of such finding and shall state in writing the
3 reasons for rejection of the statement of organization.

4 (8)~~(7)~~ The Division of Elections shall adopt
5 ~~promulgate~~ rules to prescribe the manner in which inactive
6 committees may be dissolved and have their registration
7 canceled. Such rules shall, at a minimum, provide for:

8 (a) Notice which shall contain the facts and conduct
9 which warrant the intended action, including but not limited
10 to failure to file reports and limited activity.

11 (b) Adequate opportunity to respond.

12 (c) Appeal of the decision to the Florida Elections
13 Commission. Such appeals shall be exempt from the
14 confidentiality provisions of s. 106.25.

15 Section 4. Subsections (2) and (5) and paragraph (c)
16 of subsection (4) of section 106.04, Florida Statutes, are
17 amended to read:

18 106.04 Committees of continuous existence.--

19 (2) Any group, organization, association, or other
20 entity may seek certification from the Department of State as
21 a committee of continuous existence by filing an application
22 with the Division of Elections on a form provided by the
23 division. Such application shall provide the information
24 required of political committees by s. 106.03(2) and (3), and
25 any change in such information shall be reported pursuant to
26 s. 106.03(5). Each application shall be accompanied by the
27 name and street address of the principal officer of the
28 applying entity as of the date of the application; a copy of
29 the charter or bylaws of the organization; a copy of the dues
30 or assessment schedule of the organization, or formula by
31 which dues or assessments are levied; and a complete financial

1 statement or annual audit summarizing all income received, and
2 all expenses incurred, by the organization during the 12
3 months preceding the date of application. A membership list
4 shall be made available for inspection if deemed necessary by
5 the division.

6 (4)

7 (c)1. All committees of continuous existence shall
8 file the original and one copy of their reports with the
9 Division of Elections. In addition, a duplicate copy of each
10 report shall be filed with the supervisor of elections in the
11 county in which the committee maintains its books and records,
12 except that if the filing officer to whom the committee is
13 required to report is located in the same county as the
14 supervisor no such duplicate report is required to be filed
15 with the supervisor. Reports shall be on forms provided by
16 the division and shall contain the following information:

17 a.1. The full name, address, and occupation of each
18 person who has made one or more contributions to the committee
19 during the reporting period, together with the amounts and
20 dates of such contributions. For corporations, the report
21 must provide as clear a description as practicable of the
22 principal type of business conducted by the corporation.
23 However, if the contribution is \$100 or less, the occupation
24 of the contributor or principal type of business need not be
25 listed. However, for any contributions which represent the
26 payment of dues by members in a fixed amount pursuant to the
27 schedule on file with the Division of Elections, only the
28 aggregate amount of such contributions need be listed,
29 together with the number of members paying such dues and the
30 amount of the membership dues.

31

1 ~~b.2.~~ The name and address of each political committee
2 or committee of continuous existence from which the reporting
3 committee received, or the name and address of each political
4 committee, committee of continuous existence, or political
5 party to which it made, any transfer of funds, together with
6 the amounts and dates of all transfers.

7 ~~c.3.~~ Any other receipt of funds not listed pursuant to
8 sub-subparagraph a.~~subparagraph 1.~~ or sub-subparagraph b.
9 ~~subparagraph 2.~~, including the sources and amounts of all such
10 funds.

11 ~~d.4.~~ The name and address of, and office sought by,
12 each candidate to whom the committee has made a contribution
13 during the reporting period, together with the amount and date
14 of each contribution.

15 2. For any reporting committee whose name does not
16 include the name of a corporation, labor union, professional
17 association, political committee, committee of continuous
18 existence, or other business entity, or economic or special
19 interest, the report must include as clear a description as
20 practicable of a common economic or other special interest, if
21 any, of a majority of the committee's contributors. For
22 purposes of this subparagraph, the term "majority of the
23 committee's contributors" means more than 50 percent of the
24 total number of contributors who have contributed in excess of
25 \$100 or more than 50 percent of the sum of all contributions
26 received in excess of \$100 each.

27 (5) No committee of continuous existence shall
28 contribute to any candidate or political committee an amount
29 in excess of the limits contained in s. 106.08(1) or
30 participate in any other activity which is prohibited by this
31 chapter. If any violation occurs, it shall be punishable as

1 provided in this chapter for the given offense. No funds of a
2 committee of continuous existence shall be expended on behalf
3 of a candidate, except by means of a contribution made through
4 the duly appointed campaign treasurer of a candidate. No such
5 committee shall make expenditures in support of, or in
6 opposition to, an issue or an elected public official unless
7 such committee first registers as a political committee
8 pursuant to this chapter and undertakes all the practices and
9 procedures required thereof; provided such committee may make
10 contributions in a total amount not to exceed 25 percent of
11 its aggregate income, as reflected in the annual report filed
12 for the previous year, to one or more political committees
13 registered pursuant to s. 106.03 and formed to support or
14 oppose issues.

15 Section 5. Subsection (3) and paragraph (a) of
16 subsection (4) of section 106.07, Florida Statutes, are
17 amended to read:

18 106.07 Reports; certification and filing.--

19 (3) Reports required of a political committee shall be
20 filed with the agency or officer before whom such committee
21 registers pursuant to s. 106.03(4)~~(3)~~and shall be subject to
22 the same filing conditions as established for candidates'
23 reports. Only committees that file with the Department of
24 State shall file the original and one copy of their reports.
25 Incomplete reports by political committees shall be treated in
26 the manner provided for incomplete reports by candidates in
27 subsection (2).

28 (4)(a)1. Each report required by this section shall
29 contain:

30 a.1. The full name, address, and occupation, if any
31 of each person who has made one or more contributions to or

1 for such committee or candidate within the reporting period,
2 together with the amount and date of such contributions. For
3 corporations, the report must provide as clear a description
4 as practicable of the principal type of business conducted by
5 the corporation. However, if the contribution is \$100 or less
6 or is from a relative, as defined in s. 112.312, provided that
7 the relationship is reported, the occupation of the
8 contributor or the principal type of business need not be
9 listed.

10 b.2. The name and address of each political committee
11 from which the reporting committee or the candidate received,
12 or to which the reporting committee or candidate made, any
13 transfer of funds, together with the amounts and dates of all
14 transfers.

15 c.3. Each loan for campaign purposes to or from any
16 person or political committee within the reporting period,
17 together with the full names, addresses, and occupations, and
18 principal places of business, if any, of the lender and
19 endorsers, if any, and the date and amount of such loans.

20 d.4. A statement of each contribution, rebate, refund,
21 or other receipt not otherwise listed under sub-subparagraphs
22 a.-c. subparagraphs 1. through 3.

23 e.5. The total sums of all loans, in-kind
24 contributions, and other receipts by or for such committee or
25 candidate during the reporting period. The reporting forms
26 shall be designed to elicit separate totals for in-kind
27 contributions, loans, and other receipts.

28 f.6. The full name and address of each person to whom
29 expenditures have been made by or on behalf of the committee
30 or candidate within the reporting period; the amount, date,
31 and purpose of each such expenditure; and the name and address

1 of, and office sought by, each candidate on whose behalf such
2 expenditure was made. However, expenditures made from the
3 petty cash fund provided by s. 106.12 need not be reported
4 individually.

5 g.7. The full name and address of each person to whom
6 an expenditure for personal services, salary, or reimbursement
7 for authorized expenses has been made and which is not
8 otherwise reported, including the amount, date, and purpose of
9 such expenditure. However, expenditures made from the petty
10 cash fund provided for in s. 106.12 need not be reported
11 individually.

12 h.8. The total amount withdrawn and the total amount
13 spent for petty cash purposes pursuant to this chapter during
14 the reporting period.

15 i.9. The total sum of expenditures made by such
16 committee or candidate during the reporting period.

17 j.10. The amount and nature of debts and obligations
18 owed by or to the committee or candidate, which relate to the
19 conduct of any political campaign.

20 k.11. A copy of each credit card statement which shall
21 be included in the next report following receipt thereof by
22 the candidate or political committee. Receipts for each credit
23 card purchase shall be retained by the treasurer with the
24 records for the campaign account.

25 l.12. The amount and nature of any separate
26 interest-bearing accounts or certificates of deposit and
27 identification of the financial institution in which such
28 accounts or certificates of deposit are located.

29 2. For any reporting committee whose name does not
30 include the name of a corporation, labor union, professional
31 association, political committee, committee of continuous

1 existence, or other business entity, or economic or special
2 interest, the report must include as clear a description as
3 practicable of a common economic or other special interest, if
4 any, of a majority of the committee's contributors. For
5 purposes of this subparagraph, the term "majority of the
6 committee's contributors" means more than 50 percent of the
7 total number of contributors who have contributed in excess of
8 \$100 or more than 50 percent of the sum of all contributions
9 received in excess of \$100 each.

10 Section 6. Except as otherwise provided herein, this
11 act shall take effect July 1, 1999.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31