

By Senators Latvala, Saunders, Sebesta, Kirkpatrick, Lee and Carlton

19-830A-00

1 A bill to be entitled
2 An act relating to campaign financing; amending
3 s. 106.021, F.S.; specifying that certain
4 endorsements are not contributions or
5 expenditures for purposes of ch. 106, F.S.;
6 amending s. 106.08, F.S.; prohibiting
7 contributions made during a certain period
8 preceding the first primary election through
9 the general election which exceed a specified
10 amount; providing penalties; creating s.
11 106.293, F.S.; requiring the state executive
12 committee of each political party to report
13 contributions in excess of a specified amount
14 to the Division of Elections within the
15 Department of State; requiring the division to
16 adopt rules governing such reports; providing
17 penalties for failure to timely make reports;
18 providing an effective date.

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

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22 Section 1. Subsection (3) of section 106.021, Florida
23 Statutes, is amended to read:

24 106.021 Campaign treasurers; deputies; primary and
25 secondary depositories.--

26 (3)(a) Except for independent expenditures, no
27 contribution or expenditure, including contributions or
28 expenditures of a candidate or of the candidate's family,
29 shall be directly or indirectly made or received in
30 furtherance of the candidacy of any person for nomination or
31 election to political office in the state or on behalf of any

1 political committee except through the duly appointed campaign
2 treasurer of the candidate or political committee.

3 (b) Notwithstanding paragraph (a)~~However,~~
4 expenditures may be made directly by any political committee
5 or political party regulated by chapter 103 for obtaining
6 time, space, or services in or by any communications medium
7 for the purpose of jointly endorsing three or more
8 candidates. Any such expenditure for an endorsement that
9 allocates substantially equal time, space, or service to each
10 candidate, or any such expenditure for an endorsement in a
11 general election which lists all nominees of a political party
12 in the area covered by the broadcast or mailing and no
13 candidate in the endorsement is allocated more than three
14 times as much time or space as any other candidate in the
15 endorsement, is shall not be considered a contribution or
16 expenditure to or on behalf of any such candidates for the
17 purposes of this chapter.

18 Section 2. Section 106.08, Florida Statutes, is
19 amended to read:

20 106.08 Contributions; limitations on.--

21 (1)(a) Except for political parties, no person,
22 political committee, or committee of continuous existence may,
23 in any election, make contributions in excess of \$500 to any
24 candidate for election to or retention in office or to any
25 political committee supporting or opposing one or more
26 candidates. Candidates for the offices of Governor and
27 Lieutenant Governor on the same ticket are considered a single
28 candidate for the purpose of this section.

29 (b)1. The contribution limits provided in this
30 subsection do not apply to contributions made by a state or
31 county executive committee of a political party regulated by

1 chapter 103 or to amounts contributed by a candidate to his or
2 her own campaign.

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

8 (c) The contribution limits of this subsection apply
9 to each election. For purposes of this subsection, the first
10 primary, second primary, and general election are separate
11 elections so long as the candidate is not an unopposed
12 candidate as defined in s. 106.011(15). However, for the
13 purpose of contribution limits with respect to candidates for
14 retention as a justice or judge, there is only one election,
15 which is the general election. With respect to candidates in a
16 circuit holding an election for circuit judge or in a county
17 holding an election for county court judge, there are only two
18 elections, which are the first primary election and general
19 election.

20 (2)(a) A candidate may not accept contributions from
21 national, state, including any subordinate committee of a
22 national, state, or county committee of a political party, and
23 county executive committees of a political party, which
24 contributions in the aggregate exceed \$50,000, no more than
25 \$25,000 of which may be accepted prior to the 28-day period
26 immediately preceding the date of the general election.

27 (b) Polling services, research services, costs for
28 campaign staff, professional consulting services, and
29 telephone calls are not contributions to be counted toward the
30 contribution limits of paragraph (a). Any item not expressly
31 identified in this paragraph as nonallocable is a contribution

1 in an amount equal to the fair market value of the item and
2 must be counted as allocable toward the \$50,000 contribution
3 limits of paragraph (a). Nonallocable, in-kind contributions
4 must be reported by the candidate under s. 106.07 and by the
5 political party under s. 106.29.

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

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

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

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

30 2. Any contribution received by a candidate or the
31 campaign treasurer or deputy campaign treasurer of a candidate

1 after the candidate has been notified in writing by the
2 department or supervisor that he or she has become unopposed
3 as a result of an independent or minor party candidate failing
4 to obtain the required number of petition signatures shall be
5 returned to the person, political committee, or committee of
6 continuous existence contributing it and shall not be used or
7 expended by or on behalf of the candidate.

8 (4) Any contribution received by the chair, campaign
9 treasurer, or deputy campaign treasurer of a political
10 committee supporting or opposing a candidate with opposition
11 in an election or supporting or opposing an issue on the
12 ballot in an election on the day of that election or less than
13 5 days prior to the day of that election may not be obligated
14 or expended by the committee until after the date of the
15 election.

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

3 (6) A political party may not accept any contribution
4 that ~~which~~ has been specifically designated for the partial or
5 exclusive use of a particular candidate. Any contribution so
6 designated must be returned to the contributor and may not be
7 used or expended by or on behalf of the candidate.

8 (7) A person, political committee, or committee of
9 continuous existence may not make contributions that exceed
10 \$5,000 in the aggregate to a state executive committee of a
11 political party regulated under chapter 103, a county
12 executive committee, or a subordinate committee of a political
13 party regulated under chapter 103, or any combination thereof,
14 for the period beginning on the Thursday immediately preceding
15 the first primary election through the general election.

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

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

28 (9)~~(8)~~ Except when otherwise provided in subsection
29 (8)~~(7)~~, any person who knowingly and willfully violates any
30 provision of this section shall, in addition to any other
31 penalty prescribed by this chapter, pay to the state a sum

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

5 ~~(10)(9)~~ This section does not apply to the transfer of
6 funds between a primary campaign depository and a savings
7 account or certificate of deposit or to any interest earned on
8 such account or certificate.

9 Section 3. Section 106.293, Florida Statutes, is
10 created to read:

11 106.293 Electronic reports by political parties;
12 penalties.--

13 (1) The state executive committee of each political
14 party regulated by chapter 103 shall electronically file with
15 the Division of Elections a report of any contribution it
16 receives in excess of \$5,000. The report must contain the same
17 information as required of a candidate by s. 106.07(4), and
18 must be electronically filed with the division no later than 5
19 p.m. of the third day after the contribution is received. Upon
20 receipt of the filing, the division shall electronically
21 transmit a confirmation of receipt to the executive committee.
22 If the executive committee is unable to file electronically
23 for any reason, a written report may be timely filed in person
24 with the division. However, if a report due to be filed on a
25 Saturday, Sunday, or legal holiday cannot be electronically
26 filed for technical reasons, it must be filed either
27 electronically or in person with the division by 10 a.m. of
28 the next business day.

29 (2) The division shall adopt rules providing for
30 electronic filing which must, at a minimum, provide that:

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1 (a) The division develop an electronic filing system
2 using the Internet or other on-line technologies; and

3 (b) The system be reasonably secure and provide a
4 method for authenticating the identity of the person
5 submitting the report.

6 (3) Contributions electronically filed under this
7 section must also be included on the written reports submitted
8 by the executive committee under s. 106.29.

9 (4) Any executive committee that fails to timely file
10 a report required by this section is subject to a maximum
11 civil penalty equal to 25 percent of the amount of the
12 contribution that was not timely reported. In determining the
13 amount of the penalty, the Florida Elections Commission must
14 consider any mitigating and aggravating circumstances
15 identified in s. 106.265. This penalty shall substitute for
16 the penalties provided in s. 106.265, shall be deposited into
17 the General Revenue Fund of the state, and if necessary,
18 collected pursuant to s. 106.265(2).

19 Section 4. This act shall take effect July 1, 2000.

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22 SENATE SUMMARY

23 Provides that certain endorsements are not contributions
24 or expenditures for purposes of ch. 106, F.S. Prohibits a
25 person, political committee, or committee of continuous
26 existence from making contributions to a political party
27 which exceed \$5,000 in the aggregate during a specified
28 period preceding the first primary election. Provides
29 that a violation of such prohibition by making one
30 contribution is a first-degree misdemeanor and a
31 violation of such prohibition by making two or more
 contributions is a third-degree felony. Requires that the
 state executive committee of each political party report
 contributions in excess of \$5,000 to the Division of
 Elections within the Department of State. (See bill for
 details.)