

By Representative Hart

1 A bill to be entitled
2 An act relating to elections; creating s.
3 101.56061, F.S.; providing for a uniform
4 statewide voting system; restricting approval
5 to a precinct tabulation marksense-type voting
6 system after a specified date; providing for
7 development of a statewide direct reporting
8 equipment voting system for future use if
9 funded; authorizing the Department of State to
10 hold the copyright to the direct reporting
11 system's software as provided by law; amending
12 ss. 100.061 and 100.091, F.S.; revising the
13 dates on which the primary elections are held;
14 creating s. 101.122, F.S.; authorizing and
15 providing requirements for provisional ballots;
16 amending s. 97.021, F.S.; providing
17 definitions; amending s. 102.166, F.S.;
18 revising election protest procedures; amending
19 s. 102.167, F.S.; providing the form of protest
20 of election returns with the Elections
21 Canvassing Commission; amending s. 102.168,
22 F.S.; revising election contest procedures;
23 amending s. 102.111, F.S.; revising membership
24 of the Elections Canvassing Commission;
25 revising provisions for filling vacancies on
26 the commission; amending s. 102.112, F.S.;
27 revising deadlines for submission of county
28 returns to the Department of State; eliminating
29 provisions establishing fines for late
30 reporting; creating s. 98.0977, F.S.; providing
31 for development of a statewide voter

1 registration database; authorizing the
2 Department of State to hold the copyright to
3 the database software as provided by law;
4 providing for update of information in the
5 database; creating s. 98.0979, F.S.; providing
6 that voter registration information is public
7 except for information made confidential by
8 law; providing requirements for securing copies
9 of any voter registration information; creating
10 s. 106.0705, F.S.; requiring electronic filing
11 of campaign treasurer's reports under certain
12 circumstances; providing reporting dates;
13 providing penalties; providing rulemaking
14 authority; amending s. 101.6103, F.S.; revising
15 the voter's certificate for mail ballot
16 elections to include a date requirement;
17 providing for contingent effect of certain
18 provisions; 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. Section 101.56061, Florida Statutes, is
23 created to read:

24

101.56061 Uniform statewide voting system.--

25

(1) The division shall approve only a precinct
26 tabulation marksense-type voting system for use after January
27 1, 2002.

28

(2)(a) The division shall develop a statewide direct
29 reporting equipment voting system for the 2004 and subsequent
30 election cycles, if funding for such a system has been
31 provided by law.

1 (b) The copyright to the direct reporting equipment
2 voting system software shall be held by the department
3 pursuant to s. 119.084.

4 (3) The systems authorized in this section shall be
5 approved following the guidelines set forth in the Florida
6 voting systems standards adopted under s. 101.015.

7 Section 2. Section 100.061, Florida Statutes, is
8 amended to read:

9 100.061 First primary election.--In each year in which
10 a general election is held, a first primary election for
11 nomination of candidates of political parties shall be held on
12 the Tuesday 16 ~~9~~ weeks prior to the general election. Each
13 candidate receiving a majority of the votes cast in each
14 contest in the first primary election shall be declared
15 nominated for such office. A second primary election shall be
16 held as provided by s. 100.091 in every contest in which a
17 candidate does not receive a majority.

18 Section 3. Subsection (1) of section 100.091, Florida
19 Statutes, is amended to read:

20 100.091 Second primary election.--

21 (1) In each year in which a general election is held,
22 a second primary election for nomination of candidates of
23 political parties where nominations were not made in the first
24 primary election shall be held on the Tuesday 8 ~~5~~ weeks prior
25 to the general election.

26 Section 4. Section 101.122, Florida Statutes, is
27 created to read:

28 101.122 Provisional ballots.--

29 (1) An elector may vote by provisional ballot if there
30 is a question as to the elector's eligibility to vote.

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1 (2) The election official must issue a provisional
2 ballot to the elector in accordance with the following
3 procedures:
4 (a) The elector shall fill out, in the elector's own
5 handwriting or with assistance, the affidavit on the
6 provisional ballot envelope as provided in paragraph (c).
7 (b) The affidavit must be sworn to and subscribed by
8 the elector, under penalty of perjury, before one of the
9 inspectors or clerks of the election who is authorized to
10 administer the oath.
11 (c) The provisional ballot envelope shall contain an
12 affidavit in substantially the following form:
13
14 State of Florida
15 County of....
16
17 I do solemnly swear (or affirm) that my name is;
18 that I am years old; that I was born in ...(list state or
19 country)...; that I am registered to vote, and at the time I
20 registered I resided at, in the municipality of,
21 County of, State of Florida; that I am a duly qualified
22 voter of the Florida county aforesaid and have not voted in
23 this election.
24
25 The basis for my voting by provisional ballot is:
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1 (32), respectively, and new subsections (11) and (30) are
2 added to said section to read:

3 97.021 Definitions.--For the purposes of this code,
4 except where the context clearly indicates otherwise, the
5 term:

6 (11) "Error in the vote tabulation" means a counting
7 error in which the vote tabulation system fails to count valid
8 votes.

9 (30) "Valid vote" means a vote that is properly marked
10 following the instructions of the voting system.

11 Section 6. Section 102.166, Florida Statutes, is
12 amended to read:

13 102.166 Protest of election returns; procedure.--

14 (1)(a) Any candidate for nomination or election to a
15 federal, state, or multicounty district office, or any elector
16 qualified to vote in the election related to such candidacy,
17 shall have the right to protest the returns of the election as
18 being erroneous by filing with the Elections Canvassing
19 Commission ~~appropriate canvassing board~~ a sworn, written
20 protest.

21 (b)(2) Such protest shall be filed with the Elections
22 Canvassing Commission ~~canvassing board~~ prior to the time the
23 commission ~~canvassing board~~ certifies the results for the
24 office being protested or within 72 hours ~~5 days~~ after the
25 close of the polls in that election ~~midnight of the date the~~
26 election is held, whichever occurs later.

27 (c)(3) Upon receipt of a written protest ~~Before~~
28 canvassing the returns of the election, the Elections
29 Canvassing Commission shall direct the county canvassing board
30 or boards to ~~shall~~

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1 ~~(a) When paper ballots are used, examine the~~
2 ~~tabulation of the paper ballots cast.~~

3 ~~(b) When voting machines are used, examine the~~
4 ~~counters on the machines of nonprinter machines or the~~
5 ~~printer-pac on printer machines. If there is a discrepancy~~
6 ~~between the returns and the counters of the machines or the~~
7 ~~printer-pac, the counters of such machines or the printer-pac~~
8 ~~shall be presumed correct.~~

9 ~~(c) When electronic or electromechanical equipment is~~
10 ~~used, the canvassing board shall examine precinct records and~~
11 ~~election returns. If there is a clerical error, such error~~
12 ~~shall be corrected by the county canvassing board. If there is~~
13 ~~a discrepancy that which could affect the outcome of an~~
14 ~~election, the Elections Canvassing Commission may direct the~~
15 ~~county canvassing board to may recount the ballots on the~~
16 ~~automatic tabulating equipment.~~

17 ~~(d)1.(4)(a)~~ Any candidate for federal, state, or
18 multicounty district office whose name appeared on the ballot,
19 any political committee that supports or opposes a multicounty
20 an issue that which appeared on the ballot, or any political
21 party whose candidates' names appeared on the ballot may file
22 a written request with the Elections Canvassing Commission
23 ~~county canvassing board~~ for a manual recount. The written
24 request shall contain a statement of the reason the manual
25 recount is being requested.

26 2.(b) Such request must be filed with the Elections
27 Canvassing Commission ~~canvassing board prior to the time the~~
28 ~~canvassing board certifies the results for the office being~~
29 ~~protested or~~ within 72 hours after the close of the polls in
30 that election ~~midnight of the date the election was held,~~
31 ~~whichever occurs later.~~

1 ~~3.(c)~~ The Elections Canvassing Commission ~~county~~
2 ~~canvassing board~~ may authorize a manual recount. If a manual
3 recount is authorized, the Elections Canvassing Commission
4 ~~county canvassing board~~ shall make a reasonable effort to
5 notify each candidate whose race is being recounted of the
6 time and place of such recount.

7 ~~4.(d)~~ The manual recount must include at least three
8 precincts and at least 1 percent of the total votes cast for
9 such candidate or issue. In the event there are less than
10 three precincts involved in the election, all precincts shall
11 be counted. The person who requested the recount shall choose
12 three precincts to be recounted, and, if other precincts are
13 recounted, the county canvassing board shall select the
14 additional precincts.

15 ~~(e)(5)~~ If the manual recount indicates an error in the
16 vote tabulation ~~that~~ which could affect the outcome of the
17 election, the Elections Canvassing Commission shall direct the
18 county canvassing board to ~~shall~~:

19 ~~1.(a)~~ Correct the error and recount the remaining
20 precincts with the vote tabulation system; or

21 ~~2.(b)~~ Request the Department of State to verify the
22 tabulation software. ~~or~~

23
24 ~~(c)~~ If the error in the vote tabulation cannot be corrected
25 pursuant to subparagraph 1. or subparagraph 2., the Elections
26 Canvassing Commission may direct the county canvassing board
27 to manually recount all ballots.

28 ~~(2)(a)~~ Any candidate for nomination or election to a
29 county or district office not covered by paragraph (1)(a)
30 shall have the right to protest the returns of the election as
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1 being erroneous by filing with the appropriate county
2 canvassing board a sworn, written protest.

3 (b) Such protest shall be filed with the county
4 canvassing board prior to the time the canvassing board
5 certifies the results for the office being protested or within
6 72 hours after the polls close on the date the election is
7 held, whichever occurs later.

8 (c) Upon receipt of a protest, the canvassing board
9 shall:

10 1. When paper ballots are used, examine the tabulation
11 of the paper ballots cast.

12 2. When voting machines are used, examine the counters
13 on the machines of nonprinter machines or the printer-pac on
14 printer machines. If there is a discrepancy between the
15 returns and the counters of the machines or the printer-pac,
16 the counters of such machines or the printer-pac shall be
17 presumed correct.

18 3. When electronic or electromechanical equipment is
19 used, the county canvassing board shall examine precinct
20 records and election returns. If there is a clerical error,
21 such error shall be corrected by the county canvassing board.
22 If there is a discrepancy that could affect the outcome of an
23 election, the county canvassing board may recount the ballots
24 on the automatic tabulating equipment.

25 (d)1. Any candidate not covered by paragraph (1)(d)
26 whose name appeared on the ballot or any political committee
27 that supports or opposes an issue not covered by paragraph
28 (1)(d) may file a written request with the county canvassing
29 board for a manual recount. The written request shall contain
30 a statement of the reason the manual recount is being
31 requested.

1 2. Such request must be filed with the canvassing
2 board prior to the time the canvassing board certifies the
3 results for the office being protested or within 72 hours
4 after midnight of the date the election was held, whichever
5 occurs later.

6 3. The county canvassing board may authorize a manual
7 recount. If a manual recount is authorized, the county
8 canvassing board shall make a reasonable effort to notify each
9 candidate whose race is being recounted of the time and place
10 of such recount.

11 4. The manual recount must include at least three
12 precincts and at least 1 percent of the total votes cast for
13 such candidate or issue. In the event there are less than
14 three precincts involved in the election, all precincts shall
15 be counted. The person who requested the recount shall choose
16 three precincts to be recounted, and, if other precincts are
17 recounted, the county canvassing board shall select the
18 additional precincts.

19 (e) If the manual recount indicates an error in the
20 vote tabulation that could affect the outcome of the election,
21 the county canvassing board shall:

22 1. Correct the error and recount the remaining
23 precincts with the vote tabulation system; or

24 2. Request the Department of State to verify the
25 tabulation software.

26
27 If the error in the vote tabulation cannot be corrected
28 pursuant to subparagraph 1. or subparagraph 2., the county
29 canvassing board may manually recount all ballots.

30 ~~(6) Any manual recount shall be open to the public.~~

31 (3)(7) Procedures for a manual recount are as follows:

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....., Florida

....., ...(year)...

As provided in Section 102.166(2)(1), Florida Statutes,
I, of County, Florida, believe the election returns
from Precinct No. in the election ...(year)... are
erroneous.

I hereby protest the canvass of such returns by the
.... Canvassing Board, and request that said returns be
investigated, examined, checked, and corrected by said
Canvassing Board. The basis for this protest is

Under penalties of perjury, I swear (or affirm) that I have
read the foregoing and that the facts alleged are true, to the
best of my knowledge and belief.

...(Signature of person protesting election returns)...

(2) The form of the "Protest of Election Returns to
the Elections Canvassing Commission" shall be as follows:

PROTEST OF ELECTION RETURNS TO
THE ELECTIONS CANVASSING COMMISSION

....., ...(year)...

1 As provided in Section 102.166(1), Florida Statutes, I,
2 , believe the election returns from in the
3 election ...(year)... are erroneous.

4 I hereby protest the canvass of such returns by the
5 Elections Canvassing Commission, and request that said returns
6 be investigated, examined, checked, and corrected by the
7 Elections Canvassing Commission. The basis for this protest
8 is
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15 Under penalties of perjury, I swear (or affirm) that I have
16 read the foregoing and that the facts alleged are true, to the
17 best of my knowledge and belief.

18
19 ...(Signature of person protesting election returns)...

20 Section 8. Section 102.168, Florida Statutes, is
21 amended to read:

22 102.168 Contest of election.--

23 (1) Except as provided in s. 102.171, the
24 certification of election or nomination of any person to
25 office, or of the result on any question submitted by
26 referendum, may be contested in the circuit court by any
27 unsuccessful candidate for such office or nomination thereto
28 or by any elector qualified to vote in the election related to
29 such candidacy, or by any taxpayer, respectively.

30 (2) Such contestant shall file a complaint, together
31 with the fees prescribed in chapter 28, with the clerk of the

CODING:Words ~~stricken~~ are deletions; words underlined are additions.

1 circuit court within 10 days after midnight of the date the
2 last county canvassing board empowered to canvass the returns
3 certifies the results of the election being contested or
4 within 5 days after midnight of the date the last county
5 canvassing board empowered to canvass the returns certifies
6 the results of that particular election following a protest
7 pursuant to s. 102.166~~(1)~~, whichever occurs later.

8 (3) The complaint shall set forth the grounds on which
9 the contestant intends to establish his or her right to such
10 office or set aside the result of the election on a submitted
11 referendum. The grounds for contesting an election under this
12 section are:

13 (a) Misconduct, fraud, or corruption on the part of
14 any election official or any member of the canvassing board
15 sufficient to change or place in doubt the result of the
16 election.

17 (b) Ineligibility of the successful candidate for the
18 nomination or office in dispute.

19 (c) Receipt of a number of illegal votes or rejection
20 of a number of legal votes sufficient to change ~~or place in~~
21 ~~doubt~~ the result of the election.

22 (d) Proof that any elector, election official, or
23 canvassing board member was given or offered a bribe or reward
24 in money, property, or any other thing of value for the
25 purpose of procuring the successful candidate's nomination or
26 election or determining the result on any question submitted
27 by referendum.

28 ~~(e) Any other cause or allegation which, if sustained,~~
29 ~~would show that a person other than the successful candidate~~
30 ~~was the person duly nominated or elected to the office in~~
31 ~~question or that the outcome of the election on a question~~

1 ~~submitted by referendum was contrary to the result declared by~~
2 ~~the canvassing board or election board.~~

3 (4) The canvassing board or the Elections Canvassing
4 Commission ~~election board~~ shall be the proper party defendant,
5 and the successful candidate shall be an indispensable party
6 to any action brought to contest the election or nomination of
7 a candidate.

8 (5) A statement of the grounds of contest may not be
9 rejected, nor the proceedings dismissed, by the court for any
10 want of form if the grounds of contest provided in the
11 statement are sufficient to clearly inform the defendant of
12 the particular proceeding or cause for which the nomination or
13 election is contested.

14 (6) A copy of the complaint shall be served upon the
15 defendant and any other person named therein in the same
16 manner as in other civil cases under the laws of this state.
17 Within 10 days after the complaint has been served, the
18 defendant must file an answer admitting or denying the
19 allegations on which the contestant relies or stating that the
20 defendant has no knowledge or information concerning the
21 allegations, which shall be deemed a denial of the
22 allegations, and must state any other defenses, in law or
23 fact, on which the defendant relies. If an answer is not filed
24 within the time prescribed, the defendant may not be granted a
25 hearing in court to assert any claim or objection that is
26 required by this subsection to be stated in an answer.

27 (7) Any candidate, qualified elector, or taxpayer
28 presenting such a contest to a circuit judge is entitled to an
29 immediate hearing. However, the court in its discretion may
30 limit the time to be consumed in taking testimony, with a view
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1 therein to the circumstances of the matter and to the
2 proximity of any succeeding primary or other election.

3 ~~(8) The circuit judge to whom the contest is presented~~
4 ~~may fashion such orders as he or she deems necessary to ensure~~
5 ~~that each allegation in the complaint is investigated,~~
6 ~~examined, or checked, to prevent or correct any alleged wrong,~~
7 ~~and to provide any relief appropriate under such~~
8 ~~circumstances.~~

9 Section 9. Section 102.111, Florida Statutes, is
10 amended to read:

11 102.111 Elections Canvassing Commission.--

12 (1) Immediately after certification of any election by
13 the county canvassing board, the results shall be forwarded to
14 the Department of State concerning the election of any federal
15 or state officer. The Elections Canvassing Commission shall
16 consist of the Governor and two members of the Cabinet as
17 determined by the Governor, the Secretary of State, and the
18 Director of the Division of Elections shall be the Elections
19 Canvassing Commission. The Elections Canvassing Commission
20 shall, as soon as the official results are compiled from all
21 counties, certify the returns of the election and determine
22 and declare who has been elected for each office. In the event
23 that the Governor is recused, or any other member of the
24 commission cannot serve, the Governor shall fill the vacancy
25 following the same procedure for appointment to the
26 commission. If no other Cabinet members are available to
27 serve, the Governor shall choose a registered voter any member
28 of the Elections Canvassing Commission is unavailable to
29 certify the returns of any election, such member shall be
30 replaced by a substitute member of the Cabinet as determined
31 by the Director of the Division of Elections. If the county

1 ~~returns are not received by the Department of State by 5 p.m.~~
2 ~~of the seventh day following an election, all missing counties~~
3 ~~shall be ignored, and the results shown by the returns on file~~
4 ~~shall be certified.~~

5 (2) The Division of Elections shall provide the staff
6 services required by the Elections Canvassing Commission.

7 Section 10. Section 102.112, Florida Statutes, is
8 amended to read:

9 102.112 Deadline for submission of county returns to
10 the Department of State; penalties.--

11 (1) The county canvassing board or a majority thereof
12 shall file the county returns for the election of a federal or
13 state officer with the Department of State immediately after
14 certification of the election results.

15 (2)(a) Returns must be filed by 5 p.m. on the 7th day
16 following the first primary, and general election and

17 (b) Returns must be filed by 3 p.m. on the 3rd day
18 following the second primary.

19 (c) Returns must be filed by 5 p.m. on the 14th day
20 following the general election.

21 (3)(a) If the returns are not received by the
22 department by the time specified, such returns shall ~~may~~ be
23 ignored and the results on file at that time shall ~~may~~ be
24 certified by the Elections Canvassing Commission ~~department.~~

25 (b) If the returns are not received by the department
26 due to an emergency, as defined in s. 101.732, the Elections
27 Canvassing Commission shall determine the deadline by which
28 the returns must be filed.

29 ~~(2) The department shall fine each board member \$200~~
30 ~~for each day such returns are late, the fine to be paid only~~
31 ~~from the board member's personal funds. Such fines shall be~~

1 ~~deposited into the Election Campaign Financing Trust Fund,~~
2 ~~created by s. 106.32.~~

3 ~~(3) Members of the county canvassing board may appeal~~
4 ~~such fines to the Florida Elections Commission, which shall~~
5 ~~adopt rules for such appeals.~~

6 Section 11. Section 98.0977, Florida Statutes, is
7 created to read:

8 98.0977 Statewide voter registration database.--

9 (1) The department shall develop a statewide voter
10 registration database, to be administered by the division.

11 (2) The copyright to the database shall be held by the
12 Department of State according to the rights provided in s.
13 119.084.

14 (3) The division shall compare the information
15 provided by the voter to the information held by the
16 Department of Law Enforcement, the Board of Executive
17 Clemency, and the Office of Vital Statistics. If the division
18 finds information that suggests the voter is ineligible to
19 register to vote, the division shall notify the voter by
20 certified mail. The notification shall contain a statement as
21 to the reason of ineligibility and request information from
22 the voter on forms provided by the division to determine
23 eligibility. After reviewing the information requested by the
24 division and provided by the voter, if the division determines
25 that the voter is not eligible to vote under Florida law, the
26 division shall notify the appropriate supervisor of elections
27 so that he or she may remove the voter from the rolls.

28 Section 12. Section 98.0979, Florida Statutes, is
29 created to read:

30 98.0979 Statewide voter registration database open to
31 inspection; copies.--

1 (1)(a) The voter registration information of the state
2 constitutes public records. Any citizen of the state is
3 allowed to examine the voter registration records but may not
4 make any copies or extract therefrom except as provided by
5 this section.

6 (b) Within 15 days of a request for voter registration
7 information, the division shall furnish any requested
8 information, excluding only a voter's signature and social
9 security number and such other information that is by statute
10 specifically made confidential or is exempt from public
11 records requirements.

12 (c) Actual costs of duplication of information
13 authorized by this section for release to the public shall be
14 charged in accordance with the provisions of s. 119.07.

15 (2) The information provided by the division pursuant
16 to this section shall be furnished only to:

17 (a) Municipalities;

18 (b) Other governmental agencies;

19 (c) Candidates, to further their candidacy;

20 (d) Registered political committees, registered
21 committees of continuous existence, and political parties or
22 officials thereof, for political purposes only; and

23 (e) Incumbent officeholders, to report to their
24 constituents.

25
26 Such information shall not be used for commercial purposes. No
27 person to whom a list of registered voters is made available
28 pursuant to this section, and no person who acquires such a
29 list, shall use any information contained therein for purposes
30 which are not related to elections, political or governmental
31 activities, voter registration, or law enforcement.

1 (3) Any person who acquires a list of registered
2 voters from the division shall take and subscribe to an oath
3 which shall be in substantially the following form:

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5 I hereby swear or affirm that I am a person
6 authorized by s. 98.0979, Florida Statutes, to
7 acquire information on registered voters of
8 County, Florida; that the information
9 acquired will be used only for the purposes
10 prescribed in that section and for no other
11 purpose; and that I will not permit the use or
12 copying of such information by persons not
13 authorized by the Election Code of the State of
14 Florida.

15
16 ...(Signature of person acquiring list)...

17
18 Sworn to and subscribed before me this day of
19, ...(year)....

20 Section 13. Section 106.0705, Florida Statutes, is
21 created to read:

22 106.0705 Electronic filing of campaign treasurer's
23 reports.--

24 (1)(a) Each candidate who is required to file reports
25 pursuant to s. 106.07 with the division and who accepts
26 contributions or makes expenditures in an aggregate amount in
27 excess of \$10,000 for the office sought must file such reports
28 with the division by means of electronic transfer.

29 (b) Each political committee, committee of continuous
30 existence, or state executive committee that is required to
31 file reports with the division under s. 106.04, s. 106.07, or

1 s. 106.29, as applicable, and that accepts contributions or
2 makes expenditures in an aggregate amount in excess of \$10,000
3 in a calendar year must file such reports with the division by
4 means of electronic transfer.

5 (c) Reports required to be filed pursuant to s.
6 106.04, s. 106.07, or s. 106.29 that are not subject to the
7 electronic filing provisions of this section may be on forms
8 provided by the division.

9 (2)(a) Except as provided in paragraph (b), reports
10 filed pursuant to this section shall be filed not later than 5
11 p.m. of the day designated. Reports not received by 5 p.m. of
12 the day designated as required are late filed and are subject
13 to the penalties provided in s. 106.04(8), s. 106.07(8), or s.
14 106.29(3), as applicable.

15 (b) Statewide candidates who have requested to receive
16 contributions under the provisions of the Florida Election
17 Campaign Financing Act and statewide candidates in races with
18 candidates who have requested to receive contributions under
19 such act shall file their last reports not later than noon on
20 the Friday immediately preceding the general election. Reports
21 not received by noon of that day as required are late filed
22 and are subject to the penalties provided in s. 106.07(8).

23 (3) Each report filed pursuant to this section is
24 considered to be under oath by the person filing the report,
25 and such person is subject to the provisions of s.
26 106.04(4)(d), s. 106.07(5), or s. 106.29(2), as applicable.

27 (4) The division shall adopt rules pursuant to ss.
28 120.536(1) and 120.54 to administer this section, to provide
29 for the reports required to be filed pursuant to this section,
30 and to provide that:

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