

By Senator Smith

5-1350-01

1                                   A bill to be entitled  
2           An act relating to elections; abolishing the  
3           Florida Elections Commission and transferring  
4           its powers, duties, functions, and assets to  
5           the Florida Commission on Ethics; renaming the  
6           Elections Commission Trust Fund as the  
7           Elections Trust Fund; amending ss. 99.092,  
8           99.093, 99.0955, 102.112, 104.271, 104.42,  
9           105.031, 105.071, 106.03, 106.04, 106.06,  
10          106.07, 106.085, 106.087, 106.141, 106.22,  
11          106.24, 106.25, 106.26, 106.29, 106.35, F.S.,  
12          to conform; providing an effective date.

13  
14   Be It Enacted by the Legislature of the State of Florida:  
15

16           Section 1. All powers, duties, functions, rules,  
17 records, property, and unexpended balances of appropriations,  
18 allocations, or other funds of the Florida Elections  
19 Commission are transferred to the Florida Commission on Ethics  
20 by a type two transfer as defined in section 20.06, Florida  
21 Statutes, and the Florida Elections Commission is abolished.

22           Section 2. Subsection (1) of section 99.092, Florida  
23 Statutes, is amended to read:

24           99.092 Qualifying fee of candidate; notification of  
25 Department of State.--

26           (1) Each person seeking to qualify for nomination or  
27 election to any office, except a person seeking to qualify by  
28 the alternative method pursuant to s. 99.095, s. 99.0955, or  
29 s. 99.096 and except a person seeking to qualify as a write-in  
30 candidate, shall pay a qualifying fee, which shall consist of  
31 a filing fee and election assessment, to the officer with whom

1 the person qualifies, and any party assessment levied, and  
2 shall attach the original or signed duplicate of the receipt  
3 for his or her party assessment or pay the same, in accordance  
4 with the provisions of s. 103.121, at the time of filing his  
5 or her other qualifying papers. The amount of the filing fee  
6 is 3 percent of the annual salary of the office. The amount  
7 of the election assessment is 1 percent of the annual salary  
8 of the office sought. The election assessment shall be  
9 deposited into the Elections ~~Commission~~ Trust Fund. The  
10 amount of the party assessment is 2 percent of the annual  
11 salary. The annual salary of the office for purposes of  
12 computing the filing fee, election assessment, and party  
13 assessment shall be computed by multiplying 12 times the  
14 monthly salary, excluding any special qualification pay,  
15 authorized for such office as of July 1 immediately preceding  
16 the first day of qualifying. No qualifying fee shall be  
17 returned to the candidate unless the candidate withdraws his  
18 or her candidacy before the last date to qualify. If a  
19 candidate dies prior to an election and has not withdrawn his  
20 or her candidacy before the last date to qualify, the  
21 candidate's qualifying fee shall be returned to his or her  
22 designated beneficiary, and, if the filing fee or any portion  
23 thereof has been transferred to the political party of the  
24 candidate, the Secretary of State shall direct the party to  
25 return that portion to the designated beneficiary of the  
26 candidate.

27 Section 3. Subsection (1) of section 99.093, Florida  
28 Statutes, is amended to read:

29 99.093 Municipal candidates; election assessment.--

30 (1) Each person seeking to qualify for nomination or  
31 election to a municipal office shall pay, at the time of

1 qualifying for office, an election assessment. The election  
2 assessment shall be an amount equal to 1 percent of the annual  
3 salary of the office sought. Within 30 days after the close  
4 of qualifying, the qualifying officer shall forward all  
5 assessments collected pursuant to this section to the  
6 Department of State for deposit in the Elections ~~Commission~~  
7 Trust Fund.

8 Section 4. Subsection (2) of section 99.0955, Florida  
9 Statutes, is amended to read:

10 99.0955 Candidates with no party affiliation; name on  
11 general election ballot.--

12 (2) The qualifying fee for candidates with no party  
13 affiliation shall consist of a filing fee and an election  
14 assessment. The amount of the filing fee is 3 percent of the  
15 annual salary of the office sought. The amount of the  
16 election assessment is 1 percent of the annual salary of the  
17 office sought. The election assessment shall be deposited  
18 into the Elections ~~Commission~~ Trust Fund. Filing fees paid to  
19 the Department of State shall be deposited into the General  
20 Revenue Fund of the state. Filing fees paid to the supervisor  
21 of elections shall be deposited into the general revenue fund  
22 of the county.

23 Section 5. Subsection (3) of section 102.112, Florida  
24 Statutes, is amended to read:

25 102.112 Deadline for submission of county returns to  
26 the Department of State; penalties.--

27 (3) Members of the county canvassing board may appeal  
28 such fines to the Florida ~~Elections~~ Commission on Ethics,  
29 which shall adopt rules for such appeals.

30 Section 6. Subsection (2) of section 104.271, Florida  
31 Statutes, is amended to read:

1           104.271 False or malicious charges against, or false  
2 statements about, opposing candidates; penalty.--

3           (2) Any candidate who, in a primary election or other  
4 election, with actual malice makes or causes to be made any  
5 statement about an opposing candidate which is false is guilty  
6 of a violation of this code. An aggrieved candidate may file  
7 a complaint with the Florida ~~Elections~~ Commission on Ethics  
8 pursuant to s. 106.25. The commission shall adopt rules to  
9 provide an expedited hearing of complaints filed under this  
10 subsection. Notwithstanding any other provision of law, the  
11 commission shall assess a civil penalty of up to \$5,000  
12 against any candidate found in violation of this subsection,  
13 which shall be deposited to the account of the General Revenue  
14 Fund of the state.

15           Section 7. Subsection (1) of section 104.42, Florida  
16 Statutes, is amended to read:

17           104.42 Fraudulent registration and illegal voting;  
18 investigation.--

19           (1) The supervisor of elections is authorized to  
20 investigate fraudulent registrations and illegal voting and to  
21 report his or her findings to the local state attorney and the  
22 Florida ~~Elections~~ Commission on Ethics.

23           Section 8. Subsection (3) of section 105.031, Florida  
24 Statutes, is amended to read:

25           105.031 Qualification; filing fee; candidate's oath;  
26 items required to be filed.--

27           (3) QUALIFYING FEE--Each candidate qualifying for  
28 election to a judicial office or the office of school board  
29 member, except write-in judicial candidates, shall, during the  
30 time for qualifying, pay to the officer with whom he or she  
31 qualifies a qualifying fee, which shall consist of a filing

1 fee and an election assessment, or qualify by the alternative  
2 method. The amount of the filing fee is 3 percent of the  
3 annual salary of the office sought. The amount of the election  
4 assessment is 1 percent of the annual salary of the office  
5 sought. The Department of State shall forward all filing fees  
6 to the Department of Revenue for deposit in the Elections  
7 ~~Commission~~ Trust Fund. The supervisor of elections shall  
8 forward all filing fees to the Elections ~~Commission~~ Trust  
9 Fund. The election assessment shall be deposited into the  
10 Elections ~~Commission~~ Trust Fund. The annual salary of the  
11 office for purposes of computing the qualifying fee shall be  
12 computed by multiplying 12 times the monthly salary authorized  
13 for such office as of July 1 immediately preceding the first  
14 day of qualifying. This subsection shall not apply to  
15 candidates qualifying for retention to judicial office.

16 Section 9. Section 105.071, Florida Statutes, is  
17 amended to read:

18 105.071 Candidates for judicial office; limitations on  
19 political activity.--A candidate for judicial office shall  
20 not:

21 (1) Participate in any partisan political party  
22 activities, except that such candidate may register to vote as  
23 a member of any political party and may vote in any party  
24 primary for candidates for nomination of the party in which  
25 she or he is registered to vote.

26 (2) Campaign as a member of any political party.

27 (3) Publicly represent or advertise herself or himself  
28 as a member of any political party.

29 (4) Endorse any candidate.

30 (5) Make political speeches other than in the  
31 candidate's own behalf.

1           (6) Make contributions to political party funds.  
2           (7) Accept contributions from any political party.  
3           (8) Solicit contributions for any political party.  
4           (9) Accept or retain a place on any political party  
5 committee.

6           (10) Make any contribution to any person, group, or  
7 organization for its endorsement to judicial office.

8           (11) Agree to pay all or any part of any advertisement  
9 sponsored by any person, group, or organization wherein the  
10 candidate may be endorsed for judicial office by any such  
11 person, group, or organization.

12

13 A candidate for judicial office or retention therein who  
14 violates the provisions of this section is liable for a civil  
15 fine of up to \$1,000 to be determined by the Florida ~~Elections~~  
16 Commission on Ethics.

17           Section 10. Paragraph (c) of subsection (7) of section  
18 106.03, Florida Statutes, is amended to read:

19           106.03 Registration of political committees.--

20           (7) The Division of Elections shall promulgate rules  
21 to prescribe the manner in which inactive committees may be  
22 dissolved and have their registration canceled. Such rules  
23 shall, at a minimum, provide for:

24           (c) Appeal of the decision to the Florida ~~Elections~~  
25 Commission on Ethics. Such appeals shall be exempt from the  
26 confidentiality provisions of s. 106.25.

27           Section 11. Subsections (6), (7), and (8) of section  
28 106.04, Florida Statutes, are amended to read:

29           106.04 Committees of continuous existence.--

30           (6) All accounts and records of a committee of  
31 continuous existence may be inspected under reasonable

1 | circumstances by any authorized representative of the Division  
2 | of Elections or the Florida ~~Elections~~ Commission on Ethics.  
3 | The right of inspection may be enforced by appropriate writ  
4 | issued by any court of competent jurisdiction.

5 |         (7) If a committee of continuous existence ceases to  
6 | meet the criteria prescribed by subsection (1), the Division  
7 | of Elections shall revoke its certification until such time as  
8 | the criteria are again met. The Division of Elections shall  
9 | promulgate rules to prescribe the manner in which such  
10 | certification shall be revoked. Such rules shall, at a  
11 | minimum, provide for:

12 |             (a) Notice, which shall contain the facts and conduct  
13 | that warrant the intended action.

14 |             (b) Adequate opportunity to respond.

15 |             (c) Appeal of the decision to the Florida ~~Elections~~  
16 | Commission on Ethics. Such appeals shall be exempt from the  
17 | confidentiality provisions of s. 106.25.

18 |         (8)(a) Any committee of continuous existence failing  
19 | to file a report on the designated due date shall be subject  
20 | to a fine. The fine shall be \$500 per day for each late day,  
21 | not to exceed 25 percent of the total receipts or  
22 | expenditures, whichever is greater, for the period covered by  
23 | the late report. The fine shall be assessed by the filing  
24 | officer, and the moneys collected shall be deposited in the  
25 | Elections ~~Commission~~ Trust Fund. No separate fine shall be  
26 | assessed for failure to file a copy of any report required by  
27 | this section.

28 |             (b) Upon determining that a report is late, the filing  
29 | officer shall immediately notify the treasurer of the  
30 | committee as to the failure to file a report by the designated  
31 | due date and that a fine is being assessed for each late day.

1 Upon receipt of the report, the filing officer shall determine  
2 the amount of fine which is due and shall notify the treasurer  
3 of the committee. The filing officer shall determine the  
4 amount of the fine due based upon the earliest of the  
5 following:

6 1. When the report is actually received by such  
7 officer.

8 2. When the report is postmarked.

9 3. When the certificate of mailing is dated.

10 4. When the receipt from an established courier  
11 company is dated.

12  
13 Such fine shall be paid to the filing officer within 20 days  
14 after receipt of the notice of payment due, unless appeal is  
15 made to the Florida ~~Elections~~ Commission on Ethics pursuant to  
16 paragraph (c). An officer or member of a committee shall not  
17 be personally liable for such fine.

18 (c) Any treasurer of a committee may appeal or dispute  
19 the fine, based upon unusual circumstances surrounding the  
20 failure to file on the designated due date, and may request  
21 and shall be entitled to a hearing before the Florida  
22 ~~Elections~~ Commission on Ethics, which shall have the authority  
23 to waive the fine in whole or in part. Any such request shall  
24 be made within 20 days after receipt of the notice of payment  
25 due. In such case, the treasurer of the committee shall,  
26 within the 20-day period, notify the filing officer in writing  
27 of his or her intention to bring the matter before the  
28 commission.

29 (d) The filing officer shall notify the Florida  
30 ~~Elections~~ Commission on Ethics of the repeated late filing by  
31 a committee of continuous existence, the failure of a



1 committee of continuous existence to file a report after  
2 notice, or the failure to pay the fine imposed.

3 Section 12. Subsection (2) of section 106.06, Florida  
4 Statutes, is amended to read:

5 106.06 Treasurer to keep records; inspections.--

6 (2) Accounts, including separate interest-bearing  
7 accounts and certificates of deposit, kept by the campaign  
8 treasurer of a candidate or political committee may be  
9 inspected under reasonable circumstances before, during, or  
10 after the election to which the accounts refer by any  
11 authorized representative of the Division of Elections or the  
12 Florida ~~Elections~~ Commission on Ethics. The right of  
13 inspection may be enforced by appropriate writ issued by any  
14 court of competent jurisdiction. The campaign treasurer of a  
15 political committee supporting a candidate may be joined with  
16 the campaign treasurer of the candidate as respondent in such  
17 a proceeding.

18 Section 13. Subsections (6) and (8) of section 106.07,  
19 Florida Statutes, are amended to read:

20 106.07 Reports; certification and filing.--

21 (6) The campaign depository shall return all checks  
22 drawn on the account to the campaign treasurer who shall  
23 retain the records pursuant to s. 106.06. The records  
24 maintained by the depository with respect to such account  
25 shall be subject to inspection by an agent of the Division of  
26 Elections or the Florida ~~Elections~~ Commission on Ethics at any  
27 time during normal banking hours, and such depository shall  
28 furnish certified copies of any of such records to the  
29 Division of Elections or Florida ~~Elections~~ Commission on  
30 Ethics upon request.

31

1           (8)(a) Any candidate or political committee failing to  
2 file a report on the designated due date shall be subject to a  
3 fine as provided in paragraph (b) for each late day, and, in  
4 the case of a candidate, such fine shall be paid only from  
5 personal funds of the candidate. The fine shall be assessed  
6 by the filing officer and the moneys collected shall be  
7 deposited:

8           1. In the Elections ~~Commission~~ Trust Fund, in the case  
9 of a candidate for state office or a political committee that  
10 registers with the Division of Elections; or

11           2. In the general revenue fund of the political  
12 subdivision, in the case of a candidate for an office of a  
13 political subdivision or a political committee that registers  
14 with an officer of a political subdivision.

15  
16 No separate fine shall be assessed for failure to file a copy  
17 of any report required by this section.

18           (b) Upon determining that a report is late, the filing  
19 officer shall immediately notify the candidate or chair of the  
20 political committee as to the failure to file a report by the  
21 designated due date and that a fine is being assessed for each  
22 late day. The fine shall be \$50 per day for the first 3 days  
23 late and, thereafter, \$500 per day for each late day, not to  
24 exceed 25 percent of the total receipts or expenditures,  
25 whichever is greater, for the period covered by the late  
26 report. However, for the reports immediately preceding each  
27 primary and general election, the fine shall be \$500 per day  
28 for each late day, not to exceed 25 percent of the total  
29 receipts or expenditures, whichever if greater, for the period  
30 covered by the late report. Upon receipt of the report, the  
31 filing officer shall determine the amount of the fine which is

1 due and shall notify the candidate or chair. The filing  
2 officer shall determine the amount of the fine due based upon  
3 the earliest of the following:

4 1. When the report is actually received by such  
5 officer.

6 2. When the report is postmarked.

7 3. When the certificate of mailing is dated.

8 4. When the receipt from an established courier  
9 company is dated.

10

11 Such fine shall be paid to the filing officer within 20 days  
12 after receipt of the notice of payment due, unless appeal is  
13 made to the Florida ~~Elections~~ Commission on Ethics pursuant to  
14 paragraph (c). In the case of a candidate, such fine shall  
15 not be an allowable campaign expenditure and shall be paid  
16 only from personal funds of the candidate. An officer or  
17 member of a political committee shall not be personally liable  
18 for such fine.

19 (c) Any candidate or chair of a political committee  
20 may appeal or dispute the fine, based upon unusual  
21 circumstances surrounding the failure to file on the  
22 designated due date, and may request and shall be entitled to  
23 a hearing before the Florida ~~Elections~~ Commission on Ethics,  
24 which shall have the authority to waive the fine in whole or  
25 in part. Any such request shall be made within 20 days after  
26 receipt of the notice of payment due. In such case, the  
27 candidate or chair of the political committee shall, within  
28 the 20-day period, notify the filing officer in writing of his  
29 or her intention to bring the matter before the commission.

30 (d) The appropriate filing officer shall notify the  
31 Florida ~~Elections~~ Commission on Ethics of the repeated late

1 filing by a candidate or political committee, the failure of a  
2 candidate or political committee to file a report after  
3 notice, or the failure to pay the fine imposed.

4 Section 14. Subsection (3) of section 106.085, Florida  
5 Statutes, is amended to read:

6 106.085 Independent expenditures; unfair surprise  
7 prohibited; notice requirements; penalty.--

8 (3) A person who violates any provision of this  
9 section shall be liable for a civil fine of up to \$5,000 to be  
10 determined by the Florida ~~Elections~~ Commission on Ethics or  
11 the entire amount of the expenditure not noticed, whichever is  
12 greater.

13 Section 15. Paragraph (b) of subsection (2) of section  
14 106.087, Florida Statutes, is amended to read:

15 106.087 Independent expenditures; contribution limits;  
16 restrictions on political parties, political committees, and  
17 committees of continuous existence.--

18 (b) Any political committee or committee of continuous  
19 existence that violates this subsection is liable for a civil  
20 fine of up to \$5,000 to be determined by the Florida ~~Elections~~  
21 Commission on Ethics or the entire amount of the expenditures,  
22 whichever is greater.

23 Section 16. Subsection (6) of section 106.141, Florida  
24 Statutes, is amended to read:

25 106.141 Disposition of surplus funds by candidates.--

26 (6) Prior to disposing of funds pursuant to subsection  
27 (4) or transferring funds into an office account pursuant to  
28 subsection (5), any candidate who filed an oath stating that  
29 he or she was unable to pay the election assessment or fee for  
30 verification of petition signatures without imposing an undue  
31 burden on his or her personal resources or on resources

1 otherwise available to him or her, or who filed both such  
2 oaths, or who qualified by the alternative method and was not  
3 required to pay an election assessment, shall reimburse the  
4 state or local governmental entity, whichever is applicable,  
5 for such waived assessment or fee or both. Such reimbursement  
6 shall be made first for the cost of petition verification and  
7 then, if funds are remaining, for the amount of the election  
8 assessment. If there are insufficient funds in the account to  
9 pay the full amount of either the assessment or the fee or  
10 both, the remaining funds shall be disbursed in the above  
11 manner until no funds remain. All funds disbursed pursuant to  
12 this subsection shall be remitted to the qualifying officer.  
13 Any reimbursement for petition verification costs which are  
14 reimbursable by the state shall be forwarded by the qualifying  
15 officer to the state for deposit in the General Revenue Fund.  
16 All reimbursements for the amount of the election assessment  
17 shall be forwarded by the qualifying officer to the Department  
18 of State for deposit in the Elections ~~Commission~~ Trust Fund.

19 Section 17. Subsection (7) of section 106.22, Florida  
20 Statutes, is amended to read:

21 106.22 Duties of the Division of Elections.--It is the  
22 duty of the Division of Elections to:

23 (7) Report to the Florida ~~Elections~~ Commission on  
24 Ethics any failure to file a report or information required by  
25 this chapter or any apparent violation of this chapter.

26 Section 18. Section 106.24, Florida Statutes, is  
27 amended to read:

28 106.24 Florida ~~Elections~~ Commission on Ethics;  
29 ~~membership; powers; duties.--~~

30 ~~(1)(a) There is created within the Department of Legal~~  
31 ~~Affairs, Office of the Attorney General, a Florida Elections~~

1 ~~Commission, hereinafter referred to as the commission. The~~  
2 ~~commission shall be a separate budget entity, and its director~~  
3 ~~shall be the agency head for all purposes. The commission~~  
4 ~~shall not be subject to control, supervision, or direction by~~  
5 ~~the Department of Legal Affairs or the Attorney General in the~~  
6 ~~performance of its duties, including, but not limited to,~~  
7 ~~personnel, purchasing transactions involving real or personal~~  
8 ~~property, and budgetary matters.~~

9 ~~(b) The commission shall be composed of nine members.~~  
10 ~~The President of the Senate, the Speaker of the House of~~  
11 ~~Representatives, the minority leader of the Senate, and the~~  
12 ~~minority leader of the House of Representatives shall each~~  
13 ~~provide a list of six nominees to the Governor for initial~~  
14 ~~appointment to the commission. The Governor may appoint two~~  
15 ~~members to the commission from each list. If the Governor~~  
16 ~~refuses to appoint two members from any of the respective~~  
17 ~~lists, the Governor shall so inform the nominating officer and~~  
18 ~~the nominating officer shall submit a new list of six nominees~~  
19 ~~within 30 days. The new list must contain at least three~~  
20 ~~nominees not included on the prior nominating list. The ninth~~  
21 ~~commission member, who shall serve as chair of the commission,~~  
22 ~~shall be appointed by the Governor. Each member of the~~  
23 ~~commission is subject to confirmation by the Senate. The~~  
24 ~~chair of the commission shall serve for a maximum term of 4~~  
25 ~~years, such term to run concurrently with the term of the~~  
26 ~~appointing Governor and until a future successor is appointed.~~  
27 ~~Other members of the commission shall serve for 4-year terms~~  
28 ~~and until their successors are appointed.~~

29 ~~(c) As the terms of members expire, excluding the~~  
30 ~~chair, successors shall be appointed to 4-year terms and shall~~  
31 ~~serve until their successors are appointed. Six months prior~~

1 ~~to the expiration of a commission member's term, the ranking~~  
2 ~~officer of the political party in the respective house~~  
3 ~~originally nominating the commission member shall submit a~~  
4 ~~list of three nominees to the Governor. The Governor may~~  
5 ~~appoint one of the listed nominees to the commission. If no~~  
6 ~~nominee is selected from the list, the Governor shall so~~  
7 ~~inform the nominating officer, who shall submit a list of~~  
8 ~~three different nominees to the Governor within 30 days.~~  
9 ~~Vacancies on the commission shall expeditiously be filled for~~  
10 ~~the unexpired terms in the same manner.~~

11 ~~(d) As the term of the chair of the commission expires~~  
12 ~~or becomes vacant, a successor shall be appointed in the~~  
13 ~~manner of the original appointment, and shall serve for a~~  
14 ~~maximum of 4 years, such term to run concurrently with the~~  
15 ~~term of the appointing Governor and until a future successor~~  
16 ~~is appointed.~~

17 ~~(e) In no event may any member of the commission serve~~  
18 ~~more than two full terms. Members of the commission shall be~~  
19 ~~paid travel and per diem as provided in s. 112.061 while in~~  
20 ~~performance of their duties and in traveling to, from, and~~  
21 ~~upon same. Of the nine members of the commission, no more~~  
22 ~~than five members shall be from the same political party at~~  
23 ~~any one time.~~

24 ~~(2) No member of the commission shall be a member of~~  
25 ~~any county, state, or national committee of a political party;~~  
26 ~~be an officer in any partisan political club or organization;~~  
27 ~~or hold, or be a candidate for, any other public office. No~~  
28 ~~person shall be appointed as a member of the commission who~~  
29 ~~has held an elective public office or office in a political~~  
30 ~~party within the year immediately preceding his or her~~  
31 ~~appointment.~~

1           ~~(3) The commission shall convene at the call of its~~  
2 ~~chair or at the request of a majority of the members of the~~  
3 ~~commission. The presence of five members is required to~~  
4 ~~constitute a quorum, and the affirmative vote of the majority~~  
5 ~~of the members present is required for any action or~~  
6 ~~recommendation by the commission. The commission may meet in~~  
7 ~~any city of the state.~~

8           ~~(4) The commission shall appoint an executive~~  
9 ~~director, who shall serve under the direction, supervision,~~  
10 ~~and control of the commission. The executive director, with~~  
11 ~~the consent of the commission, shall employ such staff as are~~  
12 ~~necessary to adequately perform the functions of the~~  
13 ~~commission, within budgetary limitations. All employees,~~  
14 ~~except the executive director and attorneys, are subject to~~  
15 ~~part II of chapter 110. The executive director shall serve at~~  
16 ~~the pleasure of the commission and be subject to part III of~~  
17 ~~chapter 110, except that the commission shall have complete~~  
18 ~~authority for setting the executive director's salary.~~  
19 ~~Attorneys employed by the commission shall be subject to part~~  
20 ~~V of chapter 110.~~

21           ~~(1)(5)~~ Hearings shall be held before the Florida  
22 Commission on Ethics, except that the chair may direct that  
23 any hearing be held before one member of the commission or a  
24 panel of less than the full commission. The commission shall  
25 adopt rules to provide for the filing of a report when  
26 hearings are held by a single commissioner or a panel, which  
27 rules shall prescribe the time for filing the report and the  
28 contents of the report.

29           ~~(2)(6)~~ There is ~~hereby~~ established in the State  
30 Treasury an Elections ~~Commission~~ Trust Fund to be used  
31 ~~utilized~~ by the Division of Elections and the Florida



1 ~~Elections~~ Commission on Ethics in order to carry out their  
2 duties pursuant to ss. 106.24-106.28. The trust fund may also  
3 be used by the division, pursuant to its authority under s.  
4 106.22(11), to provide rewards for information leading to  
5 criminal convictions related to voter registration fraud,  
6 voter fraud, and vote scams.

7 ~~(7) The commission shall develop a budget request~~  
8 ~~pursuant to chapter 216 annually. The budget is not subject~~  
9 ~~to change by the Department of Legal Affairs or the Attorney~~  
10 ~~General, but it shall be submitted by the Department of Legal~~  
11 ~~Affairs to the Governor for transmittal to the Legislature.~~

12 ~~(3)(8)~~ The commission is authorized to contract or  
13 consult with appropriate agencies of state government for such  
14 professional assistance as may be needed in the discharge of  
15 its duties.

16 Section 19. Section 106.25, Florida Statutes, is  
17 amended to read:

18 106.25 Reports of alleged violations to Florida  
19 ~~Elections~~ Commission on Ethics; disposition of findings.--

20 (1) Jurisdiction to investigate and determine  
21 violations of this chapter and chapter 104 is vested in the  
22 Florida ~~Elections~~ Commission on Ethics; however, nothing in  
23 this section limits the jurisdiction of any other officers or  
24 agencies of government empowered by law to investigate, act  
25 upon, or dispose of alleged violations of this code.

26 (2) The commission shall investigate all violations of  
27 this chapter and chapter 104, but only after having received  
28 either a sworn complaint or information reported to it by the  
29 Division of Elections. Any person, other than the division,  
30 having information of any violation of this chapter or chapter  
31 104 shall file a sworn complaint with the commission. Such

1 sworn complaint shall state whether a complaint of the same  
2 violation has been made to any state attorney. Within 5 days  
3 after receipt of a sworn complaint, the commission shall  
4 transmit a copy of the complaint to the alleged violator. All  
5 sworn complaints alleging violations of the Florida Election  
6 Code over which the commission has jurisdiction shall be filed  
7 with the commission within 2 years of the alleged violations.  
8 The period of limitations is tolled on the day a sworn  
9 complaint is filed with the commission.

10 (3) For the purposes of commission jurisdiction, a  
11 violation shall mean the willful performance of an act  
12 prohibited by this chapter or chapter 104 or the willful  
13 failure to perform an act required by this chapter or chapter  
14 104.

15 (4) The commission shall undertake a preliminary  
16 investigation to determine if the facts alleged in a sworn  
17 complaint or a matter initiated by the division constitute  
18 probable cause to believe that a violation has occurred. Upon  
19 completion of the preliminary investigation, the commission  
20 shall, by written report, find probable cause or no probable  
21 cause to believe that this chapter or chapter 104 has been  
22 violated.

23 (a) If no probable cause is found, the commission  
24 shall dismiss the case and the case shall become a matter of  
25 public record, except as otherwise provided in this section,  
26 together with a written statement of the findings of the  
27 preliminary investigation and a summary of the facts which the  
28 commission shall send to the complainant and the alleged  
29 violator.

30 (b) If probable cause is found, the commission shall  
31 so notify the complainant and the alleged violator in writing.

1 All documents made or received in the disposition of the  
2 complaint shall become public records upon a finding by the  
3 commission.

4  
5 In a case where probable cause is found, the commission shall  
6 make a preliminary determination to consider the matter or to  
7 refer the matter to the state attorney for the judicial  
8 circuit in which the alleged violation occurred.

9 (5) When there are disputed issues of material fact in  
10 a proceeding conducted under ss. 120.569 and 120.57, a person  
11 alleged by the ~~Elections~~ Commission on Ethics to have  
12 committed a violation of this chapter or chapter 104 may  
13 elect, within 30 days after the date of the filing of the  
14 commission's allegations, to have a hearing conducted by an  
15 administrative law judge in the Division of Administrative  
16 Hearings.

17 (6) It is the duty of a state attorney receiving a  
18 complaint referred by the commission to investigate the  
19 complaint promptly and thoroughly; to undertake such criminal  
20 or civil actions as are justified by law; and to report to the  
21 commission the results of such investigation, the action  
22 taken, and the disposition thereof. The failure or refusal of  
23 a state attorney to prosecute or to initiate action upon a  
24 complaint or a referral by the commission shall not bar  
25 further action by the commission under this chapter.

26 (7) Every sworn complaint filed pursuant to this  
27 chapter with the commission, every investigation and  
28 investigative report or other paper of the commission with  
29 respect to a violation of this chapter or chapter 104, and  
30 every proceeding of the commission with respect to a violation  
31 of this chapter or chapter 104 is confidential, is exempt from

1 the provisions of ss. 119.07(1) and 286.011, and is exempt  
2 from publication in the Florida Administrative Weekly of any  
3 notice or agenda with respect to any proceeding relating to  
4 such violation, except under the following circumstances:  
5       (a) As provided in subsection (6);  
6       (b) Upon a determination of probable cause or no  
7 probable cause by the commission; or  
8       (c) For proceedings conducted with respect to appeals  
9 of fines levied by filing officers for the late filing of  
10 reports required by this chapter.  
11  
12 However, a complainant is not bound by the confidentiality  
13 provisions of this section. In addition, confidentiality may  
14 be waived in writing by the person against whom the complaint  
15 has been filed or the investigation has been initiated. If a  
16 finding of probable cause in a case is entered within 30 days  
17 prior to the date of the election with respect to which the  
18 alleged violation occurred, such finding and the proceedings  
19 and records relating to such case shall not become public  
20 until noon of the day following such election. When two or  
21 more persons are being investigated by the commission with  
22 respect to an alleged violation of this chapter or chapter  
23 104, the commission may not publicly enter a finding of  
24 probable cause or no probable cause in the case until a  
25 finding of probable cause or no probable cause for the entire  
26 case has been determined. However, once the confidentiality of  
27 any case has been breached, the person or persons under  
28 investigation have the right to waive the confidentiality of  
29 the case, thereby opening up the proceedings and records to  
30 the public. Any person who discloses any information or  
31 matter made confidential by the provisions of this subsection

1 commits a misdemeanor of the first degree, punishable as  
2 provided in s. 775.082 or s. 775.083.

3 (8) Any person who files a complaint pursuant to this  
4 section while knowing that the allegations contained in such  
5 complaint are false or without merit commits a misdemeanor of  
6 the first degree, punishable as provided in s. 775.082 or s.  
7 775.083.

8 Section 20. Subsection (13) of section 106.26, Florida  
9 Statutes, is amended to read:

10 106.26 Powers of commission; rights and  
11 responsibilities of parties; findings by commission.--

12 (13) The commission may not issue advisory opinions  
13 regarding the Florida Election Code and must, in all its  
14 deliberations and decisions, adhere to statutory law and  
15 advisory opinions of the division.

16 Section 21. Subsection (3) of section 106.29, Florida  
17 Statutes, is amended to read:

18 106.29 Reports by political parties; restrictions on  
19 contributions and expenditures; penalties.--

20 (3)(a) Any state or county executive committee failing  
21 to file a report on the designated due date shall be subject  
22 to a fine as provided in paragraph (b) for each late day. The  
23 fine shall be assessed by the filing officer, and the moneys  
24 collected shall be deposited in the Elections ~~Commission~~ Trust  
25 Fund.

26 (b) Upon determining that a report is late, the filing  
27 officer shall immediately notify the chair of the executive  
28 committee as to the failure to file a report by the designated  
29 due date and that a fine is being assessed for each late day.  
30 The fine shall be \$1,000 for a state executive committee, and  
31 \$50 for a county executive committee, per day for each late

1 day, not to exceed 25 percent of the total receipts or  
2 expenditures, whichever is greater, for the period covered by  
3 the late report. However, if an executive committee fails to  
4 file a report on the Friday immediately preceding the general  
5 election, the fine shall be \$10,000 per day for each day a  
6 state executive committee is late and \$500 per day for each  
7 day a county executive committee is late. Upon receipt of the  
8 report, the filing officer shall determine the amount of the  
9 fine which is due and shall notify the chair. The filing  
10 officer shall determine the amount of the fine due based upon  
11 the earliest of the following:

- 12 1. When the report is actually received by such  
13 officer.
- 14 2. When the report is postmarked.
- 15 3. When the certificate of mailing is dated.
- 16 4. When the receipt from an established courier  
17 company is dated.

18  
19 Such fine shall be paid to the filing officer within 20 days  
20 after receipt of the notice of payment due, unless appeal is  
21 made to the Florida ~~Elections~~ Commission on Ethics pursuant to  
22 paragraph (c). An officer or member of an executive committee  
23 shall not be personally liable for such fine.

24 (c) The chair of an executive committee may appeal or  
25 dispute the fine, based upon unusual circumstances surrounding  
26 the failure to file on the designated due date, and may  
27 request and shall be entitled to a hearing before the Florida  
28 ~~Elections~~ Commission on Ethics, which shall have the authority  
29 to waive the fine in whole or in part. Any such request shall  
30 be made within 20 days after receipt of the notice of payment  
31 due. In such case, the chair of the executive committee

1 shall, within the 20-day period, notify the filing officer in  
2 writing of his or her intention to bring the matter before the  
3 commission.

4 (d) The appropriate filing officer shall notify the  
5 Florida ~~Elections~~ Commission on Ethics of the repeated late  
6 filing by an executive committee, the failure of an executive  
7 committee to file a report after notice, or the failure to pay  
8 the fine imposed.

9 Section 22. Subsection (1) of section 106.35, Florida  
10 Statutes, is amended to read:

11 106.35 Distribution of funds.--

12 (1) The division shall review each request for  
13 contributions from the Election Campaign Financing Trust Fund  
14 and certify whether the candidate is eligible for such  
15 contributions. Notice of the certification decision shall be  
16 provided to the candidate. An adverse decision may be  
17 appealed to the Florida ~~Elections~~ Commission on Ethics. The  
18 division shall adopt rules providing a procedure for such  
19 appeals.

20 Section 23. This act shall take effect July 1, 2001.

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23 SENATE SUMMARY

24 Abolishes the Florida Elections Commission and transfers  
25 its powers, duties, functions, and assets to the  
Commission on Ethics.

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