

By Senator Silver

38-154-01

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.

19

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 allocates  
13 no candidate in the endorsement more than three times as much  
14 time or space as any other candidate in the endorsement, is  
15 ~~shall not be considered~~ a contribution or expenditure to or on  
16 behalf of any such candidates for the purposes of this  
17 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 electronically  
27 or in person with the division by 10 a.m. of the next business  
28 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 is in lieu of the  
16 penalties provided in s. 106.265, shall be deposited into the  
17 General Revenue Fund of the state, and if necessary, collected  
18 pursuant to s. 106.265(2).

19           Section 4. This act shall take effect July 1, 2001.

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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.)