

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
1		.	
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3		.	
4		.	

ORIGINAL STAMP BELOW

11 The Committee on Rules, Ethics & Elections offered the
12 following:

14 **Amendment (with title amendment)**

15 Remove everything after the enacting clause

17 and insert:

18 Section 1. Subsections (1) and (13) of section
19 106.011, Florida Statutes, are amended to read:

20 106.011 Definitions.--As used in this chapter, the
21 following terms have the following meanings unless the context
22 clearly indicates otherwise:

23 (1)(a) "Political committee" means:

24 1. A combination of two or more individuals, or a
25 person other than an individual, that, in an aggregate amount
26 in excess of \$500 during a single calendar year:

27 a. Accepts contributions for the purpose of making
28 contributions to any candidate, political committee, committee
29 of continuous existence, or political party;

30 b. Accepts contributions for the purpose of expressly
31 advocating the election or defeat of a candidate or the

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1 passage or defeat of an issue;

2 c. Makes expenditures that expressly advocate the
3 election or defeat of a candidate or the passage or defeat of
4 an issue; or

5 d. Makes contributions to a common fund, other than a
6 joint checking account between spouses, from which
7 contributions are made to any candidate, political committee,
8 committee of continuous existence, or political party.~~the~~
9 ~~primary or incidental purpose of which is to support or oppose~~
10 ~~any candidate, issue, or political party, which accepts~~
11 ~~contributions or makes expenditures during a calendar year in~~
12 ~~an aggregate amount in excess of \$500; "political committee"~~
13 ~~also means~~

14 2. The sponsor of a proposed constitutional amendment
15 by initiative who intends to seek the signatures of registered
16 electors.

17 (b) Notwithstanding paragraph (a), the following
18 entities are not considered political committees for purposes
19 of this chapter:

20 1. Organizations which are certified by the Department
21 of State as committees of continuous existence pursuant to s.
22 106.04, national political parties, and the state and county
23 executive committees of political parties regulated by chapter
24 103 ~~shall not be considered political committees for the~~
25 ~~purposes of this chapter.~~

26 2. Corporations regulated by chapter 607 or chapter
27 617 or other business entities formed for purposes other than
28 to support or oppose issues or candidates, ~~are not political~~
29 ~~committees~~ if their political activities are limited to
30 contributions to candidates, political parties, or political
31 committees or expenditures in support of or opposition to an

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1 issue from corporate or business funds and if no contributions
2 are received by such corporations or business entities.

3 (13) "Communications media" means broadcasting
4 stations, newspapers, magazines, outdoor advertising
5 facilities, printers, direct mailing companies, advertising
6 agencies, the internet, and telephone companies; but with
7 respect to telephones, an expenditure shall be deemed to be an
8 expenditure for the use of communications media only if made
9 for the costs of telephones, paid telephonists, or automatic
10 telephone equipment to be used by a candidate or a political
11 committee to communicate with potential voters but excluding
12 any costs of telephones incurred by a volunteer for use of
13 telephones by such volunteer.

14 Section 2. Paragraph (b) of subsection (8) of section
15 106.07, Florida Statutes, is amended to read:

16 106.07 Reports; certification and filing.--

17 (8)

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. For reports required under s.
31 106.141(7), the fine is \$50 per day for each late day, not to

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1 exceed 25 percent of the total receipts or expenditures,
2 whichever is greater, for the period covered by the late
3 report. Upon receipt of the report, the filing officer shall
4 determine the amount of the fine which is due and shall notify
5 the candidate or chair. The filing officer shall determine
6 the amount of the fine due based upon the earliest of the
7 following:

8 1. When the report is actually received by such
9 officer.

10 2. When the report is postmarked.

11 3. When the certificate of mailing is dated.

12 4. When the receipt from an established courier
13 company is dated.

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

23 Section 3. Section 106.11, Florida Statutes, is
24 amended to read:

25 106.11 Expenses of and expenditures by candidates and
26 political committees.--Each candidate and each political
27 committee which designates a primary campaign depository
28 pursuant to s. 106.021(1) shall make expenditures from funds
29 on deposit in such primary campaign depository only in the
30 following manner, with the exception of expenditures made from
31 petty cash funds provided by s. 106.12:

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- 1 (1)(a) The campaign treasurer or deputy campaign
2 treasurer of a candidate or political committee shall make
3 expenditures from funds on deposit in the primary campaign
4 depository only by means of a bank check drawn upon the
5 campaign account of the candidate or political committee. The
6 campaign account shall be separate from any personal or other
7 account and shall be used only for the purpose of depositing
8 contributions and making expenditures for the candidate or
9 political committee.
- 10 (b) The checks for such account shall contain, as a
11 minimum, the following information:
- 12 1.(a) The statement "Campaign Account of ...(name of
13 candidate or political committee)...."
- 14 2.(b) The account number and the name of the bank.
- 15 3.(c) The exact amount of the expenditure.
- 16 4.(d) The signature of the campaign treasurer or
17 deputy treasurer.
- 18 5.(e) The exact purpose for which the expenditure is
19 authorized.
- 20 6.(f) The name of the payee.
- 21 (2)(a) For purposes of this section, debit cards are
22 considered bank checks, if:
- 23 1. Debit cards are obtained from the same bank that
24 has been designated as the candidate's or political
25 committee's primary campaign depository.
- 26 2. Debit cards are issued in the name of the
27 treasurer, deputy treasurer, or authorized user and state
28 "Campaign Account of (name of candidate or political
29 committee)."
- 30 3. No more than three debit cards are requested and
31 issued.

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1 4. Before a debit card is used, a list of all persons
2 authorized to use the card is filed with the division.

3 5. All debit cards issued to a candidate's campaign or
4 a political committee expire no later than midnight of the
5 last day of the month of the general election.

6 6. The person using the debit card does not receive
7 cash as part of, or independent of, any transaction for goods
8 or services.

9 7. All receipts for debit card transactions contain:

10 a. The last four digits of the debit card number.

11 b. The exact amount of the expenditure.

12 c. The name of the payee.

13 d. The signature of the campaign treasurer, deputy
14 treasurer, or authorized user.

15 e. The exact purpose for which the expenditure is
16 authorized.

17
18 Any information required by this subparagraph but not included
19 on the debit card transaction receipt may be handwritten on,
20 or attached to, the receipt by the authorized user before
21 submission to the treasurer.

22 (b) Debit cards are not subject to the requirements of
23 paragraph (1)(b).

24 (3)(2) The campaign treasurer, ~~or~~ deputy treasurer, or
25 authorized user who signs the check shall be responsible for
26 the completeness and accuracy of the information on such check
27 and for insuring that such expenditure is an authorized
28 expenditure.

29 (4)(3) No candidate, campaign manager, treasurer,
30 deputy treasurer, or political committee or any officer or
31 agent thereof, or any person acting on behalf of any of the

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1 foregoing, shall authorize any expenses, nor shall any
2 campaign treasurer or deputy treasurer sign a check drawn on
3 the primary campaign account for any purpose, unless there are
4 sufficient funds on deposit in the primary depository account
5 of the candidate or political committee to pay the full amount
6 of the authorized expense, to honor all other checks drawn on
7 such account, which checks are outstanding, and to meet all
8 expenses previously authorized but not yet paid. However, an
9 expense may be incurred for the purchase of goods or services
10 if there are sufficient funds on deposit in the primary
11 depository account to pay the full amount of the incurred
12 expense, to honor all checks drawn on such account, which
13 checks are outstanding, and to meet all other expenses
14 previously authorized but not yet paid, provided that payment
15 for such goods or services is made upon final delivery and
16 acceptance of the goods or services; and an expenditure from
17 petty cash pursuant to the provisions of s. 106.12 may be
18 authorized, if there is a sufficient amount of money in the
19 petty cash fund to pay for such expenditure. Payment for
20 credit card purchases shall be made pursuant to s. 106.125.
21 Any expense incurred or authorized in excess of such funds on
22 deposit shall, in addition to other penalties provided by law,
23 constitute a violation of this chapter.

24 (5)~~(4)~~ A candidate who withdraws his or her candidacy,
25 becomes an unopposed candidate, or is eliminated as a
26 candidate or elected to office may expend funds from the
27 campaign account to:

28 (a) Purchase "thank you" advertising for up to 75 days
29 after he or she withdraws, becomes unopposed, or is eliminated
30 or elected.

31 (b) Pay for items which were obligated before he or

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1 she withdrew, became unopposed, or was eliminated or elected.

2 (c) Pay for expenditures necessary to close down the
3 campaign office and to prepare final campaign reports.

4 (d) Dispose of surplus funds as provided in s.
5 106.141.

6 Section 4. Subsection (3) of section 106.12, Florida
7 Statutes, is amended to read:

8 106.12 Petty cash funds allowed.--

9 (3) The petty cash fund so provided shall be spent
10 only in amounts less than ~~\$100~~^{\$30} and only for office
11 supplies, transportation expenses, and other necessities.
12 Petty cash shall not be used for the purchase of time, space,
13 or services from communications media as defined in s.
14 106.011(13).

15 Section 5. Subsections (5) and (7) of section 106.141,
16 Florida Statutes, are amended to read:

17 106.141 Disposition of surplus funds by candidates.--

18 (5) A candidate elected to office or a candidate who
19 will be elected to office by virtue of his or her being
20 unopposed may, in addition to the disposition methods provided
21 in subsection (4), transfer from the campaign account to an
22 office account any amount of the funds on deposit in such
23 campaign account up to:

24 (a) Twenty ~~Ten~~ thousand dollars, for a candidate for
25 statewide office. The Governor and Lieutenant Governor shall
26 be considered separate candidates for the purpose of this
27 section.

28 (b) Five thousand dollars, for a candidate for
29 multicounty office.

30 (c) Five ~~Two~~ thousand ~~five hundred~~ dollars multiplied
31 by the number of years in the term of office for which

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1 | elected, for a candidate for legislative office.

2 | (d) Two ~~One~~ thousand five hundred dollars multiplied
3 | by the number of years in the term of office for which
4 | elected, for a candidate for county office or for a candidate
5 | in any election conducted on less than a countywide basis.

6 | (e) Six thousand dollars, for a candidate for
7 | retention as a justice of the Supreme Court.

8 | (f) Three thousand dollars, for a candidate for
9 | retention as a judge of a district court of appeal.

10 | (g) One thousand five hundred dollars, for a candidate
11 | for county court judge or circuit judge.

12 |

13 | The office account established pursuant to this subsection
14 | shall be separate from any personal or other account. Any
15 | funds so transferred by a candidate shall be used only for
16 | legitimate expenses in connection with the candidate's public
17 | office. Such expenses may include travel expenses incurred by
18 | the officer or a staff member, personal taxes payable on
19 | office account funds by the candidate or elected public
20 | official, or expenses incurred in the operation of his or her
21 | office, including the employment of additional staff. The
22 | funds may be deposited in a savings account; however, all
23 | deposits, withdrawals, and interest earned thereon shall be
24 | reported at the appropriate reporting period. If a candidate
25 | is reelected to office or elected to another office and has
26 | funds remaining in his or her office account, he or she may
27 | transfer surplus campaign funds to the office account. At no
28 | time may the funds in the office account exceed the limitation
29 | imposed by this subsection. Upon leaving public office, any
30 | person who has funds in an office account pursuant to this
31 | subsection remaining on deposit shall give such funds to a

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1 charitable organization or organizations which meet the
2 requirements of s. 501(c)(3) of the Internal Revenue Code or,
3 in the case of a state officer, to the state to be deposited
4 in the General Revenue Fund or, in the case of an officer of a
5 political subdivision, to the political subdivision to be
6 deposited in the general fund thereof.

7 (7)(a) Any candidate required to dispose of campaign
8 funds pursuant to this section shall do so within the time
9 required by this section and shall, on or before the date by
10 which such disposition is to have been made, file with the
11 officer with whom reports are required to be filed pursuant to
12 s. 106.07 a form prescribed by the Division of Elections
13 listing:

14 ~~1.~~(a) The name and address of each person or unit of
15 government to whom any of the funds were distributed and the
16 amounts thereof;

17 ~~2.~~(b) The name and address of each person to whom an
18 expenditure was made, together with the amount thereof and
19 purpose therefor; and

20 ~~3.~~(c) The amount of such funds transferred to an
21 office account by the candidate, together with the name and
22 address of the bank in which the office account is located.

23
24 Such report shall be signed by the candidate and the campaign
25 treasurer and certified as true and correct pursuant to s.
26 106.07.

27 (b) The filing officer shall notify each candidate at
28 least 14 days before the date the report is due.

29 (c) Any candidate failing to file a report on the
30 designated due date shall be subject to a fine as provided in
31 s. 106.07 for submitting late termination reports.

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1 Section 6. Section 106.1437, Florida Statutes, is
2 amended to read:

3 106.1437 Miscellaneous advertisements.--

4 (1) As used in this section, the terms:

5 (a) "Electioneering advertisement" means a paid
6 expression in any communications media prescribed in s.
7 106.011(13) published on the day of any election or any of the
8 the preceding 29 days which names or depicts a candidate for
9 office in that election or which references a clearly
10 identifiable ballot measure in that election. Any
11 advertisement that qualifies as an independent expenditure
12 pursuant to s. 106.011(5) or a political advertisement
13 pursuant to s. 106.011(17) is not an electioneering
14 advertisement for purposes of this section.

15 (b) "Contribution" means:

16 1. A gift, subscription, conveyance, deposit, loan,
17 payment, or distribution of money or anything of value,
18 including contributions in kind having an attributable
19 monetary value in any form, made for the purpose of funding or
20 sponsoring an electioneering advertisement.

21 2. A transfer of funds between a political committee
22 or a committee or continuous existence and a person funding or
23 sponsoring an electioneering advertisement.

24 3. The payment, by any person other than a candidate
25 or political committee, of compensation for the personal
26 services of another person which are rendered to a person
27 funding or sponsoring an electioneering advertisement.

28 (c) "Expenditure" means a purchase, payment,
29 distribution, loan, advance, or gift of money or anything of
30 value made for the purpose of funding or sponsoring an
31 electioneering advertisement. However, the term does not

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1 include a purchase, payment, distribution, loan, advance, or
2 gift of money or anything of value made for the purpose of
3 funding or sponsoring an electioneering advertisement when
4 made by an organization, in existence prior to the time during
5 which a candidate qualifies or a ballot measure is placed on
6 the ballot for that election, for the purpose of printing or
7 distributing such organization's newsletter, containing a
8 statement by such organization in support of or opposition to
9 a candidate or ballot measure, which newsletter is distributed
10 only to members of such organization.

11 (2) Each person that sponsors or funds an
12 electioneering advertisement must file regular reports of all
13 contributions received and all expenditures made by such
14 person with the same officer as a political committee
15 supporting or opposing the candidate named or depicted or the
16 ballot measure referenced in the advertisement. Such reports
17 must contain the same information and are subject to the same
18 filing requirements as reports required of candidates in s.
19 106.07.

20 (3)(a) If the initial publication of the
21 electioneering advertisement occurs after the final regular
22 report is due under subsection (2) but prior to the closing of
23 the polls on election day, the person funding or sponsoring
24 the advertisement must file a report electronically with the
25 division no later than 1 hour after the initial publication of
26 the advertisement. The report must contain the same
27 information as required of a candidate by s. 106.07(4). Upon
28 receipt of the filing, the division shall electronically
29 transmit a confirmation of receipt to the person filing the
30 report. If the person is unable to file electronically for any
31 reason, a written report containing the required information

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1 may be faxed or hand delivered to the division no later than 1
2 hour after the initial publication of the advertisement.
3 However, if a report due to be filed under this paragraph on a
4 Saturday, Sunday, or legal holiday cannot be electronically
5 filed because of problems with Internet communications, the
6 report must be filed either electronically, by facsimile, or
7 by hand delivery with the division no later than 10 a.m. on
8 the next business day.

9 (b) The division shall adopt rules providing for
10 electronic filing which must, at a minimum, provide that:

11 1. The division develop an electronic filing system
12 using the Internet or other on-line technologies; and

13 2. The system be reasonably secure and be designed to
14 elicit the name, address, birthdate, and any other information
15 necessary to authenticate the identity of the person
16 submitting the report.

17 (c) Information filed with the division pursuant to
18 this subsection must also be included on the next regular
19 report required under subsection (2).

20 (4)(a) The following persons shall be responsible for
21 filing the reports required in subsections (2) and (3), shall
22 certify as to the correctness of each report, and shall bear
23 the responsibility for the accuracy and veracity of each
24 report:

25 1. The candidate and his or her campaign treasurer, if
26 the person funding or sponsoring the electioneering
27 advertisement is a candidate.

28 2. The committee chair and treasurer of the committee,
29 if the person funding or sponsoring the electioneering
30 advertisement is a political committee, committee of
31 continuous existence, or executive committee of a political

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1 party;

2 3. The individual, if the person funding or sponsoring
3 the electioneering advertisement is a natural person who is
4 not a candidate; or

5 4. An individual designated by the organization, if
6 the person funding or sponsoring the electioneering
7 advertisement is a group other than a political committee,
8 committee of continuous existence, or executive committee of a
9 political party. The name, address, and title of the
10 designated individual must be filed with the division in
11 writing prior to, or contemporaneous with, the filing of the
12 initial report.

13
14 Such a person is liable for violations of report filing
15 requirements to the same extent as candidates pursuant to ss.
16 106.07(5), 106.19 and 106.265.

17 (b) In addition to the penalties prescribed in
18 paragraph (a), the person funding or sponsoring an
19 electioneering advertisement and the person responsible for
20 reporting pursuant to this subsection shall be jointly and
21 severally liable for late filing fines assessed by the Florida
22 Elections Commission pursuant to s. 106.07(8). Any such person
23 may appeal or dispute the fine in accordance with the
24 provisions of s. 106.07(8)(c).

25 (6)(a) Any electioneering advertisement must
26 prominently state, "Paid advertisement paid for or sponsored
27 by ... (Name of person funding or sponsoring the
28 electioneering advertisement)...," followed by the address of
29 the person funding or sponsoring the advertisement.

30 (b) The Florida Elections Commission is authorized
31 upon finding a violation of this subsection to impose a civil

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1 penalty in the form of fines not to exceed \$5,000 or the total
2 cost of the advertisements without the proper disclaimer,
3 whichever is greater. In determining the amount of the
4 penalty, the commission must consider any mitigating or
5 aggravating circumstances prescribed in s. 106.265. This
6 penalty shall substitute for the penalties provided in s.
7 106.265, shall be deposited into the General Revenue Fund of
8 the state, and, if necessary, shall be collected pursuant to
9 s. 106.265(2).~~Any advertisement, other than a political~~
10 ~~advertisement, on billboards, bumper stickers, radio, or~~
11 ~~television, or in a newspaper, a magazine, or a periodical,~~
12 ~~intended to influence public policy or the vote of a public~~
13 ~~official, shall clearly designate the sponsor of such~~
14 ~~advertisement by including a clearly readable statement of~~
15 ~~sponsorship. If the advertisement is broadcast on television,~~
16 ~~the advertisement shall also contain a verbal statement of~~
17 ~~sponsorship. This section shall not apply to an editorial~~
18 ~~endorsement.~~

19 Section 7. Subsection (3) of section 106.15, Florida
20 Statutes, is amended to read:

21 106.15 Certain acts prohibited.--

22 (3) A ~~No~~ candidate may not shall, in the furtherance
23 of his or her candidacy for nomination or election to public
24 office in any election, use the services of any state, county,
25 municipal, or district officer or employee ~~of the state~~ during
26 working hours.

27 Section 8. Subsection (1) of section 106.19, Florida
28 Statutes, is amended to read:

29 106.19 Violations by candidates, persons connected
30 with campaigns, and political committees.--

31 (1) Any candidate; campaign manager, campaign

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1 treasurer, or deputy treasurer of any candidate; committee
2 chair, vice chair, campaign treasurer, deputy treasurer, or
3 other officer of any political committee; agent or person
4 acting on behalf of any candidate or political committee; or
5 other person who knowingly and willfully:

6 (a) Accepts a contribution in excess of the limits
7 prescribed by s. 106.08;

8 (b) Fails to report any contribution required to be
9 reported by this chapter;

10 (c) Falsely reports or deliberately fails to include
11 any information required by this chapter; or

12 (d) Makes or authorizes any expenditure in violation
13 of s. 106.11(4)~~s. 106.11(3)~~ or any other expenditure
14 prohibited by this chapter;

15
16 is guilty of a misdemeanor of the first degree, punishable as
17 provided in s. 775.082 or s. 775.083.

18 Section 9. If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 invalidity does not affect other provisions or applications of
21 the act which can be given effect without the invalid
22 provision or application, and to this end the provisions of
23 this act are severable.

24 Section 10. This act shall take effect July 1, 2002.

25
26

27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 On page 1, lines 2-18
30 remove: all of said lines

31

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1 and insert:
2 An act relating to elections; amending s.
3 106.011, F.S.; redefining the term "political
4 committee"; redefining the term "communications
5 media"; amending s. 106.07, F.S.; changing the
6 fine for certain late-filed reports; amending
7 s. 106.11, F.S.; authorizing the use of debit
8 cards for campaigns; providing requirements;
9 amending s. 106.12, F.S.; increasing the amount
10 for petty cash expenditures; amending s.
11 106.141, F.S.; requiring the filing officer to
12 notify candidates before the date the final
13 report is due; increasing the amount of surplus
14 funds that certain successful candidates may
15 contribute to an office account; amending s.
16 106.1437, F.S.; modifying reporting
17 requirements for miscellaneous advertisements
18 intended to influence public policy;
19 prescribing penalties; amending s. 106.15,
20 F.S.; expanding the prohibition on the use of
21 state employees for campaign purposes during
22 working hours to county, municipal, and
23 district employees; amending s. 106.19, F.S.;
24 conforming a statutory cross-reference;
25 providing for severability; providing an
26 effective date.

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