

By the Committee on Ethics and Elections; and Senators Lee, Futch, Smith, Constantine, King, Sanderson, Pruitt, Latvala, Campbell, Sullivan, Geller, Klein, Crist, Sebesta, Posey, Dyer, Brown-Waite and Lawson

313-1950-02

1                                   A bill to be entitled  
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.

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

30           Section 1. Subsections (1) and (13) of section  
31 106.011, Florida Statutes, are amended to read:

1           106.011 Definitions.--As used in this chapter, the  
2 following terms have the following meanings unless the context  
3 clearly indicates otherwise:

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

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

8           a. Accepts contributions for the purpose of making  
9 contributions to any candidate, political committee, committee  
10 of continuous existence, or political party;

11           b. Accepts contributions for the purpose of expressly  
12 advocating the election or defeat of a candidate or the  
13 passage or defeat of an issue;

14           c. Makes expenditures that expressly advocate the  
15 election or defeat of a candidate or the passage or defeat of  
16 an issue; or

17           d. Makes contributions to a common fund, other than a  
18 joint checking account between spouses, from which  
19 contributions are made to any candidate, political committee,  
20 committee of continuous existence, or political party.~~the~~  
21 ~~primary or incidental purpose of which is to support or oppose~~  
22 ~~any candidate, issue, or political party, which accepts~~  
23 ~~contributions or makes expenditures during a calendar year in~~  
24 ~~an aggregate amount in excess of \$500; "political committee"~~  
25 ~~also means~~

26           2. The sponsor of a proposed constitutional amendment  
27 by initiative who intends to seek the signatures of registered  
28 electors.

29           (b) Notwithstanding paragraph (a), the following  
30 entities are not considered political committees for purposes  
31 of this chapter:

1           1. Organizations which are certified by the Department  
2 of State as committees of continuous existence pursuant to s.  
3 106.04, national political parties, and the state and county  
4 executive committees of political parties regulated by chapter  
5 103 ~~shall not be considered political committees for the~~  
6 ~~purposes of this chapter.~~

7           2. Corporations regulated by chapter 607 or chapter  
8 617 or other business entities formed for purposes other than  
9 to support or oppose issues or candidates, ~~are not political~~  
10 ~~committees~~ if their political activities are limited to  
11 contributions to candidates, political parties, or political  
12 committees or expenditures in support of or opposition to an  
13 issue from corporate or business funds and if no contributions  
14 are received by such corporations or business entities.

15           (13) "Communications media" means broadcasting  
16 stations, newspapers, magazines, outdoor advertising  
17 facilities, printers, direct mailing companies, advertising  
18 agencies, the internet, and telephone companies; but with  
19 respect to telephones, an expenditure shall be deemed to be an  
20 expenditure for the use of communications media only if made  
21 for the costs of telephones, paid telephonists, or automatic  
22 telephone equipment to be used by a candidate or a political  
23 committee to communicate with potential voters but excluding  
24 any costs of telephones incurred by a volunteer for use of  
25 telephones by such volunteer.

26           Section 2. Paragraph (b) of subsection (8) of section  
27 106.07, Florida Statutes, is amended to read:

28           106.07 Reports; certification and filing.--

29           (8)

30           (b) Upon determining that a report is late, the filing  
31 officer shall immediately notify the candidate or chair of the

1 political committee as to the failure to file a report by the  
2 designated due date and that a fine is being assessed for each  
3 late day. The fine shall be \$50 per day for the first 3 days  
4 late and, thereafter, \$500 per day for each late day, not to  
5 exceed 25 percent of the total receipts or expenditures,  
6 whichever is greater, for the period covered by the late  
7 report. However, for the reports immediately preceding each  
8 primary and general election, the fine shall be \$500 per day  
9 for each late day, not to exceed 25 percent of the total  
10 receipts or expenditures, whichever if greater, for the period  
11 covered by the late report. For reports required under s.  
12 106.141(7), the fine is \$50 per day for each late day, not to  
13 exceed 25 percent of the total receipts or expenditures,  
14 whichever is greater, for the period covered by the late  
15 report. Upon receipt of the report, the filing officer shall  
16 determine the amount of the fine which is due and shall notify  
17 the candidate or chair. The filing officer shall determine  
18 the amount of the fine due based upon the earliest of the  
19 following:

- 20 1. When the report is actually received by such  
21 officer.
- 22 2. When the report is postmarked.
- 23 3. When the certificate of mailing is dated.
- 24 4. When the receipt from an established courier  
25 company is dated.

26  
27 Such fine shall be paid to the filing officer within 20 days  
28 after receipt of the notice of payment due, unless appeal is  
29 made to the Florida Elections Commission pursuant to paragraph  
30 (c). In the case of a candidate, such fine shall not be an  
31 allowable campaign expenditure and shall be paid only from

1 personal funds of the candidate. An officer or member of a  
2 political committee shall not be personally liable for such  
3 fine.

4 Section 3. Section 106.11, Florida Statutes, is  
5 amended to read:

6 106.11 Expenses of and expenditures by candidates and  
7 political committees.--Each candidate and each political  
8 committee which designates a primary campaign depository  
9 pursuant to s. 106.021(1) shall make expenditures from funds  
10 on deposit in such primary campaign depository only in the  
11 following manner, with the exception of expenditures made from  
12 petty cash funds provided by s. 106.12:

13 (1)(a) The campaign treasurer or deputy campaign  
14 treasurer of a candidate or political committee shall make  
15 expenditures from funds on deposit in the primary campaign  
16 depository only by means of a bank check drawn upon the  
17 campaign account of the candidate or political committee. The  
18 campaign account shall be separate from any personal or other  
19 account and shall be used only for the purpose of depositing  
20 contributions and making expenditures for the candidate or  
21 political committee.

22 (b) The checks for such account shall contain, as a  
23 minimum, the following information:

24 1.(a) The statement "Campaign Account of ...(name of  
25 candidate or political committee)...."

26 2.(b) The account number and the name of the bank.

27 3.(c) The exact amount of the expenditure.

28 4.(d) The signature of the campaign treasurer or  
29 deputy treasurer.

30 5.(e) The exact purpose for which the expenditure is  
31 authorized.

1           ~~6.(f)~~ The name of the payee.  
2           (2)(a) For purposes of this section, debit cards are  
3 considered bank checks, if:  
4           1. Debit cards are obtained from the same bank that  
5 has been designated as the candidate's or political  
6 committee's primary campaign depository.  
7           2. Debit cards are issued in the name of the  
8 treasurer, deputy treasurer, or authorized user and state  
9 "Campaign Account of (name of candidate or political  
10 committee)."  
11           3. No more than three debit cards are requested and  
12 issued.  
13           4. Before a debit card is used, a list of all persons  
14 authorized to use the card is filed with the division.  
15           5. All debit cards issued to a candidate's campaign or  
16 a political committee expire no later than midnight of the  
17 last day of the month of the general election.  
18           6. The person using the debit card does not receive  
19 cash as part of, or independent of, any transaction for goods  
20 or services.  
21           7. All receipts for debit card transactions contain:  
22           a. The last four digits of the debit card number.  
23           b. The exact amount of the expenditure.  
24           c. The name of the payee.  
25           d. The signature of the campaign treasurer, deputy  
26 treasurer, or authorized user.  
27           e. The exact purpose for which the expenditure is  
28 authorized.  
29  
30 Any information required by this subparagraph but not included  
31 on the debit card transaction receipt may be handwritten on,

1 or attached to, the receipt by the authorized user before  
2 submission to the treasurer.

3 (b) Debit cards are not subject to the requirements of  
4 paragraph (1)(b).

5 (3)(2) The campaign treasurer, or deputy treasurer, or  
6 authorized user who signs the check shall be responsible for  
7 the completeness and accuracy of the information on such check  
8 and for insuring that such expenditure is an authorized  
9 expenditure.

10 (4)(3) No candidate, campaign manager, treasurer,  
11 deputy treasurer, or political committee or any officer or  
12 agent thereof, or any person acting on behalf of any of the  
13 foregoing, shall authorize any expenses, nor shall any  
14 campaign treasurer or deputy treasurer sign a check drawn on  
15 the primary campaign account for any purpose, unless there are  
16 sufficient funds on deposit in the primary depository account  
17 of the candidate or political committee to pay the full amount  
18 of the authorized expense, to honor all other checks drawn on  
19 such account, which checks are outstanding, and to meet all  
20 expenses previously authorized but not yet paid. However, an  
21 expense may be incurred for the purchase of goods or services  
22 if there are sufficient funds on deposit in the primary  
23 depository account to pay the full amount of the incurred  
24 expense, to honor all checks drawn on such account, which  
25 checks are outstanding, and to meet all other expenses  
26 previously authorized but not yet paid, provided that payment  
27 for such goods or services is made upon final delivery and  
28 acceptance of the goods or services; and an expenditure from  
29 petty cash pursuant to the provisions of s. 106.12 may be  
30 authorized, if there is a sufficient amount of money in the  
31 petty cash fund to pay for such expenditure. Payment for

1 credit card purchases shall be made pursuant to s. 106.125.  
2 Any expense incurred or authorized in excess of such funds on  
3 deposit shall, in addition to other penalties provided by law,  
4 constitute a violation of this chapter.

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

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

12 (b) Pay for items which were obligated before he or  
13 she withdrew, became unopposed, or was eliminated or elected.

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

16 (d) Dispose of surplus funds as provided in s.  
17 106.141.

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

20 106.12 Petty cash funds allowed.--

21 (3) The petty cash fund so provided shall be spent  
22 only in amounts less than \$100~~\$30~~ and only for office  
23 supplies, transportation expenses, and other necessities.  
24 Petty cash shall not be used for the purchase of time, space,  
25 or services from communications media as defined in s.  
26 106.011(13).

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

29 106.141 Disposition of surplus funds by candidates.--

30 (5) A candidate elected to office or a candidate who  
31 will be elected to office by virtue of his or her being



1 unopposed may, in addition to the disposition methods provided  
2 in subsection (4), transfer from the campaign account to an  
3 office account any amount of the funds on deposit in such  
4 campaign account up to:

5 (a) Twenty ~~Ten~~ thousand dollars, for a candidate for  
6 statewide office. The Governor and Lieutenant Governor shall  
7 be considered separate candidates for the purpose of this  
8 section.

9 (b) Five thousand dollars, for a candidate for  
10 multicounty office.

11 (c) Five ~~Two~~ thousand ~~five hundred~~ dollars multiplied  
12 by the number of years in the term of office for which  
13 elected, for a candidate for legislative office.

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

18 (e) Six thousand dollars, for a candidate for  
19 retention as a justice of the Supreme Court.

20 (f) Three thousand dollars, for a candidate for  
21 retention as a judge of a district court of appeal.

22 (g) One thousand five hundred dollars, for a candidate  
23 for county court judge or circuit judge.

24

25 The office account established pursuant to this subsection  
26 shall be separate from any personal or other account. Any  
27 funds so transferred by a candidate shall be used only for  
28 legitimate expenses in connection with the candidate's public  
29 office. Such expenses may include travel expenses incurred by  
30 the officer or a staff member, personal taxes payable on  
31 office account funds by the candidate or elected public

1 official, or expenses incurred in the operation of his or her  
2 office, including the employment of additional staff. The  
3 funds may be deposited in a savings account; however, all  
4 deposits, withdrawals, and interest earned thereon shall be  
5 reported at the appropriate reporting period. If a candidate  
6 is reelected to office or elected to another office and has  
7 funds remaining in his or her office account, he or she may  
8 transfer surplus campaign funds to the office account. At no  
9 time may the funds in the office account exceed the limitation  
10 imposed by this subsection. Upon leaving public office, any  
11 person who has funds in an office account pursuant to this  
12 subsection remaining on deposit shall give such funds to a  
13 charitable organization or organizations which meet the  
14 requirements of s. 501(c)(3) of the Internal Revenue Code or,  
15 in the case of a state officer, to the state to be deposited  
16 in the General Revenue Fund or, in the case of an officer of a  
17 political subdivision, to the political subdivision to be  
18 deposited in the general fund thereof.

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

26 1.(a) The name and address of each person or unit of  
27 government to whom any of the funds were distributed and the  
28 amounts thereof;

29 2.(b) The name and address of each person to whom an  
30 expenditure was made, together with the amount thereof and  
31 purpose therefor; and

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

4  
5 Such report shall be signed by the candidate and the campaign  
6 treasurer and certified as true and correct pursuant to s.  
7 106.07.

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

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

13           Section 6. Section 106.1437, Florida Statutes, is  
14 amended to read:

15           106.1437 Miscellaneous advertisements.--

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

17           **(a) "Electioneering advertisement" means a paid**  
18 **expression in any communications media prescribed in s.**  
19 **106.011(13) published on the day of any election or any of the**  
20 **the preceding 29 days which names or depicts a candidate for**  
21 **office in that election or which references a clearly**  
22 **identifiable ballot measure in that election. Any**  
23 **advertisement that qualifies as an independent expenditure**  
24 **pursuant to s. 106.011(5) or a political advertisement**  
25 **pursuant to s. 106.011(17) is not an electioneering**  
26 **advertisement for purposes of this section.**

27           **(b) "Contribution" means:**

28           **1. A gift, subscription, conveyance, deposit, loan,**  
29 **payment, or distribution of money or anything of value,**  
30 **including contributions in kind having an attributable**

31

1 monetary value in any form, made for the purpose of funding or  
2 sponsoring an electioneering advertisement.

3 2. A transfer of funds between a political committee  
4 or a committee or continuous existence and a person funding or  
5 sponsoring an electioneering advertisement.

6 3. The payment, by any person other than a candidate  
7 or political committee, of compensation for the personal  
8 services of another person which are rendered to a person  
9 funding or sponsoring an electioneering advertisement.

10 (c) "Expenditure" means a purchase, payment,  
11 distribution, loan, advance, or gift of money or anything of  
12 value made for the purpose of funding or sponsoring an  
13 electioneering advertisement. However, the term does not  
14 include a purchase, payment, distribution, loan, advance, or  
15 gift of money or anything of value made for the purpose of  
16 funding or sponsoring an electioneering advertisement when  
17 made by an organization, in existence prior to the time during  
18 which a candidate qualifies or a ballot measure is placed on  
19 the ballot for that election, for the purpose of printing or  
20 distributing such organization's newsletter, containing a  
21 statement by such organization in support of or opposition to  
22 a candidate or ballot measure, which newsletter is distributed  
23 only to members of such organization.

24 (2) Each person that sponsors or funds an  
25 electioneering advertisement must file regular reports of all  
26 contributions received and all expenditures made by such  
27 person with the same officer as a political committee  
28 supporting or opposing the candidate named or depicted or the  
29 ballot measure referenced in the advertisement. Such reports  
30 must contain the same information and are subject to the same  
31

1 filing requirements as reports required of candidates in s.  
2 106.07.

3 (3)(a) If the initial publication of the  
4 electioneering advertisement occurs after the final regular  
5 report is due under subsection (2) but prior to the closing of  
6 the polls on election day, the person funding or sponsoring  
7 the advertisement must file a report electronically with the  
8 division no later than 1 hour after the initial publication of  
9 the advertisement. The report must contain the same  
10 information as required of a candidate by s. 106.07(4). Upon  
11 receipt of the filing, the division shall electronically  
12 transmit a confirmation of receipt to the person filing the  
13 report. If the person is unable to file electronically for any  
14 reason, a written report containing the required information  
15 may be faxed or hand delivered to the division no later than 1  
16 hour after the initial publication of the advertisement.  
17 However, if a report due to be filed under this paragraph on a  
18 Saturday, Sunday, or legal holiday cannot be electronically  
19 filed because of problems with Internet communications, the  
20 report must be filed either electronically, by facsimile, or  
21 by hand delivery with the division no later than 10 a.m. on  
22 the next business day.

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

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

27 2. The system be reasonably secure and be designed to  
28 elicit the name, address, birthdate, and any other information  
29 necessary to authenticate the identity of the person  
30 submitting the report.

31

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

4           (4)(a) The following persons shall be responsible for  
5 filing the reports required in subsections (2) and (3), shall  
6 certify as to the correctness of each report, and shall bear  
7 the responsibility for the accuracy and veracity of each  
8 report:

9           1. The candidate and his or her campaign treasurer, if  
10 the person funding or sponsoring the electioneering  
11 advertisement is a candidate.

12           2. The committee chair and treasurer of the committee,  
13 if the person funding or sponsoring the electioneering  
14 advertisement is a political committee, committee of  
15 continuous existence, or executive committee of a political  
16 party;

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

20           4. An individual designated by the organization, if  
21 the person funding or sponsoring the electioneering  
22 advertisement is a group other than a political committee,  
23 committee of continuous existence, or executive committee of a  
24 political party. The name, address, and title of the  
25 designated individual must be filed with the division in  
26 writing prior to, or contemporaneous with, the filing of the  
27 initial report.

28  
29 Such a person is liable for violations of report filing  
30 requirements to the same extent as candidates pursuant to ss.  
31 106.07(5), 106.19 and 106.265.

1           (b) In addition to the penalties prescribed in  
2 paragraph (a), the person funding or sponsoring an  
3 electioneering advertisement and the person responsible for  
4 reporting pursuant to this subsection shall be jointly and  
5 severally liable for late filing fines assessed by the Florida  
6 Elections Commission pursuant to s. 106.07(8). Any such person  
7 may appeal or dispute the fine in accordance with the  
8 provisions of s. 106.07(8)(c).

9           (6)(a) Any electioneering advertisement must  
10 prominently state, "Paid advertisement paid for or sponsored  
11 by ... (Name of person funding or sponsoring the  
12 electioneering advertisement)...," followed by the address of  
13 the person funding or sponsoring the advertisement.

14           (b) The Florida Elections Commission is authorized  
15 upon finding a violation of this subsection to impose a civil  
16 penalty in the form of fines not to exceed \$5,000 or the total  
17 cost of the advertisements without the proper disclaimer,  
18 whichever is greater. In determining the amount of the  
19 penalty, the commission must consider any mitigating or  
20 aggravating circumstances prescribed in s. 106.265. This  
21 penalty shall substitute for the penalties provided in s.  
22 106.265, shall be deposited into the General Revenue Fund of  
23 the state, and, if necessary, shall be collected pursuant to  
24 s. 106.265(2).~~Any advertisement, other than a political~~  
25 ~~advertisement, on billboards, bumper stickers, radio, or~~  
26 ~~television, or in a newspaper, a magazine, or a periodical,~~  
27 ~~intended to influence public policy or the vote of a public~~  
28 ~~official, shall clearly designate the sponsor of such~~  
29 ~~advertisement by including a clearly readable statement of~~  
30 ~~sponsorship. If the advertisement is broadcast on television,~~  
31 ~~the advertisement shall also contain a verbal statement of~~

1 ~~sponsorship. This section shall not apply to an editorial~~  
2 ~~endorsement.~~

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

5 106.15 Certain acts prohibited.--

6 (3) A ~~No~~ candidate may not ~~shall~~, in the furtherance  
7 of his or her candidacy for nomination or election to public  
8 office in any election, use the services of any state, county,  
9 municipal, or district officer or employee of the state during  
10 working hours.

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

13 106.19 Violations by candidates, persons connected  
14 with campaigns, and political committees.--

15 (1) Any candidate; campaign manager, campaign  
16 treasurer, or deputy treasurer of any candidate; committee  
17 chair, vice chair, campaign treasurer, deputy treasurer, or  
18 other officer of any political committee; agent or person  
19 acting on behalf of any candidate or political committee; or  
20 other person who knowingly and willfully:

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

23 (b) Fails to report any contribution required to be  
24 reported by this chapter;

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

27 (d) Makes or authorizes any expenditure in violation  
28 of s. 106.11(4)~~s. 106.11(3)~~ or any other expenditure  
29 prohibited by this chapter;

30  
31



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

3 Section 9. If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 invalidity does not affect other provisions or applications of  
6 the act which can be given effect without the invalid  
7 provision or application, and to this end the provisions of  
8 this act are severable.

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

10  
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
12 COMMITTEE SUBSTITUTE FOR  
13 Senate Bills 1842, 1124 and 498

14 The committee substitute differs from the original three bills  
15 in that it: combines and modifies several sections of the  
16 bills dealing with issue advocacy advertisements, and locates  
17 them in an existing, single section of Florida law entitled  
18 "Miscellaneous Advertisements"; increases the amount of  
19 surplus funds that certain candidates can contribute to an  
20 office account; and increases the petty cash amount that a  
21 campaign can spend on a single transaction from \$50 to \$100.  
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