

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Justice offered the following:

**Amendment (with title amendment)**

Between line(s) 1612 and 1613, insert:

Section 33. Subsection (13) of section 106.011, Florida Statutes, is amended to read:

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

(13) "Communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mailing companies, advertising agencies, the Internet, and telephone companies; but with respect to telephones, an expenditure shall be deemed to be an expenditure for the use of communications media only if made for the costs of telephones, paid telephonists, or automatic telephone equipment to be used by a candidate or a political committee to communicate with

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28 potential voters but excluding any costs of telephones incurred  
29 by a volunteer for use of telephones by such volunteer.

30 Section 34. Subsection (1) of section 106.141, Florida  
31 Statutes, is amended to read:

32 106.141 Disposition of surplus funds by candidates.--

33 (1) Each candidate who withdraws his or her candidacy,  
34 ~~becomes an unopposed candidate, or~~ is eliminated as a candidate,  
35 or is elected to office shall, no later than 90 days after such  
36 withdrawal, elimination, or election ~~within 90 days~~, dispose of  
37 the funds on deposit in his or her campaign account and file a  
38 report reflecting the disposition of all remaining funds. Such  
39 candidate shall not accept any contributions, nor shall any  
40 person accept contributions on behalf of such candidate, after  
41 the candidate withdraws his or her candidacy, becomes an  
42 unopposed candidate, or is eliminated or elected. However, if a  
43 candidate receives a refund check after all surplus funds have  
44 been disposed of, the check may be endorsed by the candidate and  
45 the refund disposed of under this section. An amended report  
46 must be filed showing the refund and subsequent disposition.

47 Section 35. Section 106.1437, Florida Statutes, is amended  
48 to read:

49 106.1437 Miscellaneous advertisements.--

50 (1) As used in this section, the term:

51 (a) "Electioneering advertisement" means a paid expression  
52 in any communications media prescribed in s. 106.011(13)  
53 published on the day of any election or any of the preceding 29  
54 days which names or depicts a candidate for office in that  
55 election or which references a clearly identifiable ballot  
56 measure in that election. Any advertisement that qualifies as an

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57 independent expenditure pursuant to s. 106.011(5) or a political  
58 advertisement pursuant to s. 106.011(17) is not an  
59 electioneering advertisement for purposes of this section.

60 However, the term does not include:

61 1. A statement or depiction by an organization, in  
62 existence prior to the time during which the candidate named or  
63 depicted qualifies or the issue clearly referenced is placed on  
64 the ballot for that election, made in that organization's  
65 newsletter, which newsletter is distributed only to members of  
66 that organization.

67 2. An editorial endorsement by any newspaper, radio, or  
68 television station or other recognized news medium.

69 (b) "Contribution" means:

70 1. A gift, subscription, conveyance, deposit, loan,  
71 payment, or distribution of money or anything of value,  
72 including contributions in kind having an attributable monetary  
73 value in any form, made for the purpose of funding or sponsoring  
74 an electioneering advertisement.

75 2. A transfer of funds between a political committee or a  
76 committee of continuous existence and a person funding or  
77 sponsoring an electioneering advertisement.

78 3. The payment, by any person other than a candidate or  
79 political committee, of compensation for the personal services  
80 of another person which are rendered to a person funding or  
81 sponsoring an electioneering advertisement.

82 (c) "Expenditure" means a purchase, payment, distribution,  
83 loan, advance, or gift of money or anything of value made for  
84 the purpose of funding or sponsoring an electioneering  
85 advertisement. However, the term does not include a purchase,

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86 payment, distribution, loan, advance, or gift of money or  
87 anything of value made for the purpose of funding or sponsoring  
88 an electioneering advertisement when made by an organization, in  
89 existence prior to the time during which a candidate qualifies  
90 or a ballot measure is placed on the ballot for that election,  
91 for the purpose of printing or distributing such organization's  
92 newsletter, containing a statement by such organization in  
93 support of or opposition to a candidate or ballot measure, which  
94 newsletter is distributed only to members of such organization.

95 (2) Each person that sponsors or funds an electioneering  
96 advertisement must file regular reports of all contributions  
97 received and all expenditures made by such person with the same  
98 officer as a political committee supporting or opposing the  
99 candidate named or depicted or the ballot measure referenced in  
100 the advertisement. Such reports must contain the same  
101 information and are subject to the same filing requirements as  
102 reports required under s. 106.07 for candidates not receiving  
103 public financing.

104 (3)(a) If the initial publication of the electioneering  
105 advertisement occurs after the final regular report is due under  
106 subsection (2) but prior to the closing of the polls on election  
107 day, the person funding or sponsoring the advertisement must  
108 file a report electronically with the division no later than 1  
109 hour after the initial publication of the advertisement. The  
110 report must contain the same information as required of a  
111 candidate by s. 106.07(4). Upon receipt of the filing, the  
112 division shall electronically transmit a confirmation of receipt  
113 to the person filing the report. If the person is unable to file  
114 electronically for any reason, a written report containing the

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115 required information may be faxed or hand delivered to the  
116 division no later than 1 hour after the initial publication of  
117 the advertisement. However, if a report due to be filed under  
118 this paragraph on a Saturday, Sunday, or legal holiday cannot be  
119 electronically filed because of problems with Internet  
120 communications, the report must be filed either electronically,  
121 by facsimile, or by hand delivery with the division no later  
122 than 10 a.m. on the next business day.

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

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

127 2. The system be reasonably secure and be designed to  
128 elicit the name, address, birth date, and any other information  
129 necessary to authenticate the identity of the person submitting  
130 the report.

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

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

138 1. The candidate and his or her campaign treasurer, if the  
139 person funding or sponsoring the electioneering advertisement is  
140 a candidate;

141 2. The committee chair and treasurer of the committee, if  
142 the person funding or sponsoring the electioneering

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143 advertisement is a political committee, committee of continuous  
144 existence, or executive committee of a political party;

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

148 4. An individual designated by the organization, if the  
149 person funding or sponsoring the electioneering advertisement is  
150 a group other than a political committee, committee of  
151 continuous existence, or executive committee of a political  
152 party. The name, address, and title of the designated individual  
153 must be filed with the division in writing prior to, or  
154 contemporaneous with, the filing of the initial report.

155  
156 Such person is liable for violations of report filing  
157 requirements to the same extent as candidates pursuant to ss.  
158 106.07(5), 106.19, and 106.265.

159 (b) In addition to the penalties prescribed in paragraph  
160 (a), the person funding or sponsoring an electioneering  
161 advertisement and the person responsible for reporting pursuant  
162 to this subsection shall be jointly and severally liable for  
163 late filing fines assessed by the Florida Elections Commission  
164 pursuant to s. 106.07(8). Any such person may appeal or dispute  
165 the fine in accordance with the provisions of s. 106.07(8)(c).

166 (5)(a) Any electioneering advertisement must prominently  
167 state, "Paid advertisement paid for or sponsored by . . .  
168 (Name of person funding or sponsoring the electioneering  
169 advertisement) . . . ," followed by the address of the person  
170 funding or sponsoring the advertisement.

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171       (b) The Florida Elections Commission is authorized upon  
172 finding a violation of this subsection to impose a civil penalty  
173 in the form of fines not to exceed \$5,000 or the total cost of  
174 the advertisements without the proper disclaimer, whichever is  
175 greater. In determining the amount of the penalty, the  
176 commission must consider any mitigating or aggravating  
177 circumstances prescribed in s. 106.265. This penalty shall  
178 substitute for the penalties provided in s. 106.265, shall be  
179 deposited into the General Revenue Fund of the state, and, if  
180 necessary, shall be collected pursuant to s. 106.265(2).

181       (6) A person may not make a contribution through or in the  
182 name of another, directly or indirectly, for the purpose of  
183 funding an electioneering advertisement. ~~Any advertisement,~~  
184 ~~other than a political advertisement, on billboards, bumper~~  
185 ~~stickers, radio, or television, or in a newspaper, a magazine,~~  
186 ~~or a periodical, intended to influence public policy or the vote~~  
187 ~~of a public official, shall clearly designate the sponsor of~~  
188 ~~such advertisement by including a clearly readable statement of~~  
189 ~~sponsorship. If the advertisement is broadcast on television,~~  
190 ~~the advertisement shall also contain a verbal statement of~~  
191 ~~sponsorship. This section shall not apply to an editorial~~  
192 ~~endorsement.~~

193       Section 36. If any provision of this act or its  
194 application to any person or circumstance is held invalid, the  
195 invalidity does not affect other provisions or applications of  
196 the act which can be given effect without the invalid provision  
197 or application, and to this end the provisions of this act are  
198 severable.

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

201 Remove line(s) 83, and insert:

202 code affecting persons with disabilities; amending s.

203 106.011, F.S.; redefining the term "communications media";

204 amending s. 106.141, F.S.; extending the date for

205 unopposed candidates to file a termination report, to

206 conform; amending s. 106.1437, F.S.; modifying reporting

207 requirements for miscellaneous advertisements intended to

208 influence public policy; prescribing prohibitions and

209 exemptions; prescribing penalties; providing for

210 severability; providing