

Bill No. CS for SB's 2346 & 516

Amendment No. ____ Barcode 821820

CHAMBER ACTION

Senate

House

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Senator Lee moved the following amendment:

Senate Amendment (with title amendment)

On page 2, line 1, through page 18, line 15, delete those lines and insert

and insert:

Section 2. 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:

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

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

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

b. Accepts contributions for the purpose of expressly 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;

9 2. The sponsor of a proposed constitutional amendment
10 by initiative who intends to seek the signatures of registered
11 electors.

12 (b) Notwithstanding paragraph (a), the following
13 entities are not considered political committees for purposes
14 of this chapter:

15 1. Organizations which are certified by the Department
16 of State as committees of continuous existence pursuant to s.
17 106.04, national political parties, and the state and county
18 executive committees of political parties regulated by chapter
19 103.

20 2. Corporations regulated by chapter 607 or chapter
21 617 or other business entities formed for purposes other than
22 to support or oppose issues or candidates, if their political
23 activities are limited to contributions to candidates,
24 political parties, or political committees or expenditures in
25 support of or opposition to an issue from corporate or
26 business funds and if no contributions are received by such
27 corporations or business entities.

28 3. Organizations whose activities are limited to
29 making expenditures for electioneering communications or
30 accepting contributions for the purpose of making
31 electioneering communications; however, such organizations

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1 shall be required to register and report contributions,
2 including those received from committees of continuous
3 existence, and expenditures in the same manner, at the same
4 time, subject to the same penalties, and with the same filing
5 officer as a political committee supporting or opposing a
6 candidate or issue contained in the electioneering
7 communication. If any such organization would be required to
8 register and report with more than one filing officer, the
9 organization shall register and report solely with the
10 Division of Elections.

11 (2) "Committee of continuous existence" means any
12 group, organization, association, or other such entity which
13 is certified pursuant to the provisions of s. 106.04.

14 (3) "Contribution" means:

15 (a) A gift, subscription, conveyance, deposit, loan,
16 payment, or distribution of money or anything of value,
17 including contributions in kind having an attributable
18 monetary value in any form, made for the purpose of
19 influencing the results of an election or making an
20 electioneering communication.

21 (b) A transfer of funds between political committees,
22 between committees of continuous existence, or between a
23 political committee and a committee of continuous existence.

24 (c) 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 candidate
27 or political committee without charge to the candidate or
28 committee for such services.

29 (d) The transfer of funds by a campaign treasurer or
30 deputy campaign treasurer between a primary depository and a
31 separate interest-bearing account or certificate of deposit,

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1 and the term includes any interest earned on such account or
2 certificate.

3

4 Notwithstanding the foregoing meanings of "contribution," the
5 word shall not be construed to include services, including,
6 but not limited to, legal and accounting services, provided
7 without compensation by individuals volunteering a portion or
8 all of their time on behalf of a candidate or political
9 committee. This definition shall not be construed to include
10 editorial endorsements.

11 (4)(a) "Expenditure" means a purchase, payment,
12 distribution, loan, advance, transfer of funds by a campaign
13 treasurer or deputy campaign treasurer between a primary
14 depository and a separate interest-bearing account or
15 certificate of deposit, or gift of money or anything of value
16 made for the purpose of influencing the results of an election
17 or making an electioneering communication. However,
18 "expenditure" does not include a purchase, payment,
19 distribution, loan, advance, or gift of money or anything of
20 value made for the purpose of influencing the results of an
21 election when made by an organization, in existence prior to
22 the time during which a candidate qualifies or an issue is
23 placed on the ballot for that election, for the purpose of
24 printing or distributing such organization's newsletter,
25 containing a statement by such organization in support of or
26 opposition to a candidate or issue, which newsletter is
27 distributed only to members of such organization.

28 (b) As used in this chapter, an "expenditure" for an
29 electioneering communication is made when the earliest of the
30 following occurs:

31 1. A person executes a contract for applicable goods

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1 or services;

2 2. A person makes payment, in whole or in part, for
3 applicable goods or services; or

4 3. The electioneering communication is publicly
5 disseminated.

6 (5)(a) "Independent expenditure" means an expenditure
7 by a person for the purpose of expressly advocating the
8 election or defeat of a candidate or the approval or rejection
9 of an issue, which expenditure is not controlled by,
10 coordinated with, or made upon consultation with, any
11 candidate, political committee, or agent of such candidate or
12 committee. An expenditure for such purpose by a person having
13 a contract with the candidate, political committee, or agent
14 of such candidate or committee in a given election period
15 shall not be deemed an independent expenditure.

16 (b) An expenditure for the purpose of expressly
17 advocating the election or defeat of a candidate which is made
18 by the national, state, or county executive committee of a
19 political party, including any subordinate committee of a
20 national, state, or county committee of a political party, or
21 by any political committee or committee of continuous
22 existence, or any other person, shall not be considered an
23 independent expenditure if the committee or person:

24 1. Communicates with the candidate, the candidate's
25 campaign, or an agent of the candidate acting on behalf of the
26 candidate, including any pollster, media consultant,
27 advertising agency, vendor, advisor, or staff member,
28 concerning the preparation of, use of, or payment for, the
29 specific expenditure or advertising campaign at issue; or

30 2. Makes a payment in cooperation, consultation, or
31 concert with, at the request or suggestion of, or pursuant to

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1 any general or particular understanding with the candidate,
2 the candidate's campaign, a political committee supporting the
3 candidate, or an agent of the candidate relating to the
4 specific expenditure or advertising campaign at issue; or

5 3. Makes a payment for the dissemination,
6 distribution, or republication, in whole or in part, of any
7 broadcast or any written, graphic, or other form of campaign
8 material prepared by the candidate, the candidate's campaign,
9 or an agent of the candidate, including any pollster, media
10 consultant, advertising agency, vendor, advisor, or staff
11 member; or

12 4. Makes a payment based on information about the
13 candidate's plans, projects, or needs communicated to a member
14 of the committee or person by the candidate or an agent of the
15 candidate, provided the committee or person uses the
16 information in any way, in whole or in part, either directly
17 or indirectly, to design, prepare, or pay for the specific
18 expenditure or advertising campaign at issue; or

19 5. After the last day of qualifying for statewide or
20 legislative office, consults about the candidate's plans,
21 projects, or needs in connection with the candidate's pursuit
22 of election to office and the information is used in any way
23 to plan, create, design, or prepare an independent expenditure
24 or advertising campaign, with:

25 a. Any officer, director, employee, or agent of a
26 national, state, or county executive committee of a political
27 party that has made or intends to make expenditures in
28 connection with or contributions to the candidate; or

29 b. Any person whose professional services have been
30 retained by a national, state, or county executive committee
31 of a political party that has made or intends to make

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1 expenditures in connection with or contributions to the
2 candidate; or

3 6. After the last day of qualifying for statewide or
4 legislative office, retains the professional services of any
5 person also providing those services to the candidate in
6 connection with the candidate's pursuit of election to office;
7 or

8 7. Arranges, coordinates, or directs the expenditure,
9 in any way, with the candidate or an agent of the candidate.

10 (6) "Election" means any primary election, special
11 primary election, general election, special election, or
12 municipal election held in this state for the purpose of
13 nominating or electing candidates to public office, choosing
14 delegates to the national nominating conventions of political
15 parties, or submitting an issue to the electors for their
16 approval or rejection.

17 (7) "Issue" means any proposition which is required by
18 the State Constitution, by law or resolution of the
19 Legislature, or by the charter, ordinance, or resolution of
20 any political subdivision of this state to be submitted to the
21 electors for their approval or rejection at an election, or
22 any proposition for which a petition is circulated in order to
23 have such proposition placed on the ballot at any election.

24 (8) "Person" means an individual or a corporation,
25 association, firm, partnership, joint venture, joint stock
26 company, club, organization, estate, trust, business trust,
27 syndicate, or other combination of individuals having
28 collective capacity. The term includes a political party,
29 political committee, or committee of continuous existence.

30 (9) "Campaign treasurer" means an individual appointed
31 by a candidate or political committee as provided in this

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1 chapter.

2 (10) "Public office" means any state, county,
 3 municipal, or school or other district office or position
 4 which is filled by vote of the electors.

5 (11) "Campaign fund raiser" means any affair held to
 6 raise funds to be used in a campaign for public office.

7 (12) "Division" means the Division of Elections of the
 8 Department of State.

9 (13) "Communications media" means broadcasting
 10 stations, newspapers, magazines, outdoor advertising
 11 facilities, printers, direct mailing companies, advertising
 12 agencies, the Internet, and telephone companies; but with
 13 respect to telephones, an expenditure shall be deemed to be an
 14 expenditure for the use of communications media only if made
 15 for the costs of telephones, paid telephonists, or automatic
 16 telephone equipment to be used by a candidate or a political
 17 committee to communicate with potential voters but excluding
 18 any costs of telephones incurred by a volunteer for use of
 19 telephones by such volunteer; however, with respect to the
 20 Internet, an expenditure shall be deemed an expenditure for
 21 use of communications media only if made for the cost of
 22 creating or disseminating a message on a computer information
 23 system accessible by more than one person but excluding
 24 internal communications of a campaign or of any group.

25 (14) "Filing officer" means the person before whom a
 26 candidate qualifies, the agency or officer with whom a
 27 political committee registers, or the agency by whom a
 28 committee of continuous existence is certified.

29 (15) "Unopposed candidate" means a candidate for
 30 nomination or election to an office who, after the last day on
 31 which any person, including a write-in candidate, may qualify,

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1 is without opposition in the election at which the office is
2 to be filled or who is without such opposition after such date
3 as a result of any primary election or of withdrawal by other
4 candidates seeking the same office. A candidate is not an
5 unopposed candidate if there is a vacancy to be filled under
6 s. 100.111(4), if there is a legal proceeding pending
7 regarding the right to a ballot position for the office sought
8 by the candidate, or if the candidate is seeking retention as
9 a justice or judge.

10 (16) "Candidate" means any person to whom any one or
11 more of the following apply:

12 (a) Any person who seeks to qualify for nomination or
13 election by means of the petitioning process.

14 (b) Any person who seeks to qualify for election as a
15 write-in candidate.

16 (c) Any person who receives contributions or makes
17 expenditures, or consents for any other person to receive
18 contributions or make expenditures, with a view to bring about
19 his or her nomination or election to, or retention in, public
20 office.

21 (d) Any person who appoints a treasurer and designates
22 a primary depository.

23 (e) Any person who files qualification papers and
24 subscribes to a candidate's oath as required by law.

25

26 However, this definition does not include any candidate for a
27 political party executive committee.

28 (17) "Political advertisement" means a paid expression
29 in any communications media prescribed in subsection (13),
30 whether radio, television, newspaper, magazine, periodical,
31 campaign literature, direct mail, or display or by means other

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1 than the spoken word in direct conversation, which expressly
2 advocates the election or defeat of a candidate or the
3 approval or rejection of an issue ~~shall support or oppose any~~
4 ~~candidate, elected public official, or issue.~~ However,
5 political advertisement does not include:

6 (a) A statement by an organization, in existence prior
7 to the time during which a candidate qualifies or an issue is
8 placed on the ballot for that election, in support of or
9 opposition to a candidate or issue, in that organization's
10 newsletter, which newsletter is distributed only to the
11 members of that organization.

12 (b) Editorial endorsements by any newspaper, radio or
13 television station, or other recognized news medium.

14 (18)(a) "Electioneering communication" means a paid
15 expression in any communications media prescribed in
16 subsection (13) by means other than the spoken word in direct
17 conversation that:

18 1. Refers to or depicts a clearly identified candidate
19 for office or contains a clear reference indicating that an
20 issue is to be voted on at an election, without expressly
21 advocating the election or defeat of a candidate or the
22 passage or defeat of an issue.

23 2. For communications referring to or depicting a
24 clearly identified candidate for office, is targeted to the
25 relevant electorate. A communication is considered targeted if
26 1,000 or more persons in the geographic area the candidate
27 would represent if elected will receive the communication.

28 3. For communications referring to or depicting a
29 clearly identified candidate for office, is published after
30 the end of the candidate qualifying period for the office
31 sought by the candidate.

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1 4. For communications containing a clear reference
2 indicating that an issue is to be voted on at an election, is
3 published after the issue is designated a ballot position or
4 120 days before the date of the election on the issue,
5 whichever occurs first.

6 (b) The term "electioneering communication" does not
7 include:

8 1. A statement or depiction by an organization, in
9 existence prior to the time during which a candidate named or
10 depicted qualifies or an issue identified is placed on the
11 ballot for that election, made in that organization's
12 newsletter, which newsletter is distributed only to members of
13 that organization.

14 2. An editorial endorsement, news story, commentary,
15 or editorial by any newspaper, radio, television station, or
16 other recognized news medium.

17 3. A communication that constitutes a public debate or
18 forum that includes at least two opposing candidates for an
19 office or one advocate and one opponent of an issue, or that
20 solely promotes such a debate or forum and is made by or on
21 behalf of the person sponsoring the debate or forum, provided
22 that:

23 a. The staging organization is either:

24 (I) A charitable organization that does not make other
25 electioneering communications and does not otherwise support
26 or oppose any political candidate or political party; or

27 (II) A newspaper, radio station, television station,
28 or other recognized news medium; and

29 b. The staging organization does not structure the
30 debate to promote or advance one candidate or issue position
31 over another.

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1 (c) For purposes of this chapter, an expenditure made
2 for, or in furtherance of, an electioneering communication
3 shall not be considered a contribution to or on behalf of any
4 candidate.

5 (d) For purposes of this chapter, an electioneering
6 communication shall not constitute an independent expenditure
7 nor be subject to the limitations applicable to independent
8 expenditures.

9 Section 3. Subsections (4) and (5) of section 106.04,
10 Florida Statutes, are amended to read:

11 106.04 Committees of continuous existence.--

12 (4)(a) Each committee of continuous existence shall
13 file an annual report with the Division of Elections during
14 the month of January. Such annual reports shall contain the
15 same information and shall be accompanied by the same
16 materials as original applications filed pursuant to
17 subsection (2). However, the charter or bylaws need not be
18 filed if the annual report is accompanied by a sworn statement
19 by the chair that no changes have been made to such charter or
20 bylaws since the last filing.

21 (b)1. Each committee of continuous existence shall
22 file regular reports with the Division of Elections at the
23 same times and subject to the same filing conditions as are
24 established by s. 106.07(1) and (2) for candidates' reports.

25 2. Any committee of continuous existence failing to so
26 file a report with the Division of Elections pursuant to this
27 paragraph on the designated due date shall be subject to a
28 fine for late filing as provided by this section.

29 (c) All committees of continuous existence shall file
30 the original and one copy of their reports with the Division
31 of Elections. In addition, a duplicate copy of each report

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1 shall be filed with the supervisor of elections in the county
2 in which the committee maintains its books and records, except
3 that if the filing officer to whom the committee is required
4 to report is located in the same county as the supervisor no
5 such duplicate report is required to be filed with the
6 supervisor. Reports shall be on forms provided by the
7 division and shall contain the following information:

8 1. The full name, address, and occupation of each
9 person who has made one or more contributions, including
10 contributions that represent the payment of membership dues,
11 to the committee during the reporting period, together with
12 the amounts and dates of such contributions. For corporations,
13 the report must provide as clear a description as practicable
14 of the principal type of business conducted by the
15 corporation. However, if the contribution is \$100 or less, the
16 occupation of the contributor or principal type of business
17 need not be listed. However, for any contributions ~~that~~ ~~which~~
18 represent the payment of dues by members in a fixed amount
19 aggregating no more than \$250 per calendar year, pursuant to
20 the schedule on file with the Division of Elections, only the
21 aggregate amount of such contributions need be listed,
22 together with the number of members paying such dues and the
23 amount of the membership dues.

24 2. The name and address of each political committee or
25 committee of continuous existence from which the reporting
26 committee received, or the name and address of each political
27 committee, committee of continuous existence, or political
28 party to which it made, any transfer of funds, together with
29 the amounts and dates of all transfers.

30 3. Any other receipt of funds not listed pursuant to
31 subparagraph 1. or subparagraph 2., including the sources and

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1 amounts of all such funds.

2 4. The name and address of, and office sought by, each
3 candidate to whom the committee has made a contribution during
4 the reporting period, together with the amount and date of
5 each contribution.

6 5. The full name and address of each person to whom
7 expenditures have been made by or on behalf of the committee
8 within the reporting period; the amount, date, and purpose of
9 each such expenditure; and the name and address, and office
10 sought by, each candidate on whose behalf such expenditure was
11 made.

12 6. The total sum of expenditures made by the committee
13 during the reporting period.

14 (d) The treasurer of each committee shall certify as
15 to the correctness of each report and shall bear the
16 responsibility for its accuracy and veracity. Any treasurer
17 who willfully certifies to the correctness of a report while
18 knowing that such report is incorrect, false, or incomplete
19 commits a misdemeanor of the first degree, punishable as
20 provided in s. 775.082 or s. 775.083.

21 (5) No committee of continuous existence shall make an
22 electioneering communication, contribute to any candidate or
23 political committee an amount in excess of the limits
24 contained in s. 106.08(1), or participate in any ~~other~~
25 activity which is prohibited by this chapter. If any violation
26 occurs, it shall be punishable as provided in this chapter for
27 the given offense. No funds of a committee of continuous
28 existence shall be expended on behalf of a candidate, except
29 by means of a contribution made through the duly appointed
30 campaign treasurer of a candidate. No such committee shall
31 make expenditures in support of, or in opposition to, an issue

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1 unless such committee first registers as a political committee
2 pursuant to this chapter and undertakes all the practices and
3 procedures required thereof; provided such committee may make
4 contributions in a total amount not to exceed 25 percent of
5 its aggregate income, as reflected in the annual report filed
6 for the previous year, to one or more political committees
7 registered pursuant to s. 106.03 and formed to support or
8 oppose issues.

9 Section 4. Section 106.071, Florida Statutes, is
10 amended to read:

11 106.071 Independent expenditures; electioneering
12 communications; reports; disclaimers.--

13 (1) Each person who makes an independent expenditure
14 with respect to any candidate or issue, and each individual
15 who makes an expenditure for an electioneering communication
16 which is not otherwise reported pursuant to this chapter,
17 which expenditure, in the aggregate, is in the amount of \$100
18 or more, shall file periodic reports of such expenditures in
19 the same manner, at the same time, subject to the same
20 penalties, and with the same officer as a political committee
21 supporting or opposing such candidate or issue. The report
22 shall contain the full name and address of the person making
23 the expenditure; the full name and address of each person to
24 whom and for whom each such expenditure has been made; the
25 amount, date, and purpose of each such expenditure; a
26 description of the services or goods obtained by each such
27 expenditure; the issue to which the expenditure relates; and
28 the name and address of, and office sought by, each candidate
29 on whose behalf such expenditure was made.

30 (2) Any political advertisement paid for by an
31 independent expenditure shall prominently state "Paid

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1 political advertisement paid for by . . . (Name and address
 2 of person ~~or committee~~ paying for advertisement) . .
 3 . independently of any . . . (candidate or committee) . . .
 4 .7" ~~and shall contain the name and address of the person~~
 5 ~~paying for the political advertisement.~~

6 (3) Subsection (2) does not apply to novelty items
 7 having a retail value of \$10 or less which support, but do not
 8 oppose, a candidate or issue.

9 ~~(4)(2)~~ Any person who fails to include the disclaimer
 10 prescribed in subsection~~(2)(1)~~ in any political
 11 advertisement that ~~which~~ is required to contain such
 12 disclaimer commits ~~is guilty of~~ a misdemeanor of the first
 13 degree, punishable as provided in s. 775.082 or s. 775.083.

14 ~~(3) No person may make a contribution in excess of~~
 15 ~~\$1,000 to any other person, to be used by such other person to~~
 16 ~~make an independent expenditure.~~

17 Section 5. Subsection (1) of section 106.143, Florida
 18 Statutes, is amended to read:

19 106.143 Political advertisements circulated prior to
 20 election; requirements.--

21 (1)(a) Any political advertisement that is paid for by
 22 a candidate and that is published, displayed, or circulated
 23 prior to, or on the day of, any election must prominently
 24 state: "Political advertisement paid for and approved by . .
 25 . (name of candidate) . . . , . . . (party affiliation) .
 26 . . . , for . . . (office sought)"

27 (b) Any other political advertisement and any campaign
 28 literature published, displayed, or circulated prior to, or on
 29 the day of, any election must prominently shall:

30 1.(a) Be marked "paid political advertisement" or with
 31 the abbreviation "pd. pol. adv."

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1 2. State the name and address of the persons
2 sponsoring the advertisement.

3 ~~(b) Identify the persons or organizations sponsoring~~
4 ~~the advertisement.~~

5 3.a.(I)(c)1.a. State whether the advertisement and the
6 cost of production is paid for or provided in kind by or at
7 the expense of the entity publishing, displaying,
8 broadcasting, or circulating the political advertisement; or

9 ~~(II)b.~~ State who provided or paid for the
10 advertisement and cost of production, if different from the
11 source of sponsorship.

12 ~~b.2.~~ This ~~subparagraph~~ does ~~paragraph shall~~ not apply
13 if the source of the sponsorship is patently clear from the
14 content or format of the political advertisement ~~or campaign~~
15 ~~literature.~~

16
17 This subsection does not apply to campaign messages used by a
18 candidate and the candidate's supporters if those messages are
19 designed to be worn by a person.

20 Section 6. Section 106.1437, Florida Statutes, is
21 amended to read:

22 106.1437 Miscellaneous advertisements.--Any
23 advertisement, other than a political advertisement,
24 independent expenditure, or electioneering communication, on
25 billboards, bumper stickers, radio, or television, or in a
26 newspaper, a magazine, or a periodical, intended to influence
27 public policy or the vote of a public official, shall clearly
28 designate the sponsor of such advertisement by including a
29 clearly readable statement of sponsorship. If the
30 advertisement is broadcast on television, the advertisement
31 shall also contain a verbal statement of sponsorship. This

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1 section shall not apply to an editorial endorsement.

2 Section 7. Section 106.1439, Florida Statutes, is
3 created to read:

4 106.1439 Electioneering communications; disclaimers.--

5 (1) Any electioneering communication shall prominently
6 state, "Paid electioneering communication paid for by . .
7 . (Name and address of person paying for the communication) .
8 . . ."

9 (2) Any person who fails to include the disclaimer
10 prescribed in this section in any electioneering communication
11 that is required to contain such disclaimer commits a
12 misdemeanor of the first degree, punishable as provided in s.
13 775.082 or s. 775.083.

14
15 (Redesignate subsequent sections.)

16
17

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

19 And the title is amended as follows:

20 On page 1, lines 11-23, delete those lines

21

22 and insert:

23 existence; modifying prohibitions on activities
24 of committees of continuous existence; amending
25 s. 106.071, F.S.; establishing reporting
26 requirements for certain individuals making
27 electioneering communications; modifying
28 sponsorship disclaimer requirements for
29 independent expenditures; creating an
30 exemption; deleting a limitation on
31 contributions to fund independent expenditures;

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1 amending s. 106.143, F.S.; modifying
2 sponsorship disclaimer requirements for
3 political advertisements; amending s. 106.1437,
4 F.S.; creating exemptions to disclaimer
5 requirements for certain public policy
6 advertisements; creating s. 106.1439, F.S.;
7 creating disclaimer requirements for
8 electioneering communications; providing
9 penalties; repealing s.

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