

Bill No. CS for SB's 2346 & 516

Amendment No. ____ Barcode 934560

CHAMBER ACTION

Senate

House

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Senator Lee moved the following amendment:

Senate Amendment (with title amendment)

On page 18, line 18, delete that line

and insert:

Section 8. Subsections (7) through (38) are renumbered as subsections (8) through (39), respectively, and a new subsection (8) is added to said section to read:

97.021 Definitions.--For the purposes of this code, except where the context clearly indicates otherwise, the term:

(7) "Early voting" means casting a ballot prior to election day at a location designated by the supervisor of elections and depositing the voted ballot in the tabulation system.

Section 9. Paragraphs (b) and (c) of subsection (4) of section 101.015, Florida Statutes, are amended to read:

101.015 Standards for voting systems.--

(4)

(b) Each supervisor of elections shall establish

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1 written procedures to assure accuracy and security in his or
2 her county, including procedures related to early voting
3 pursuant to s. 101.657. ~~and~~ Such procedures shall be reviewed
4 in each odd-numbered year by the Department of State.

5 (c) Each supervisor of elections shall submit any
6 revisions to the security procedures to the Department of
7 State at least 45 days before early voting commences pursuant
8 to s. 101.657 in an ~~the first~~ election in which they are to
9 take effect.

10 Section 10. Subsection (2) of section 101.5612,
11 Florida Statutes, is amended to read:

12 101.5612 Testing of tabulating equipment.--

13 (2) On any day not more than 10 days prior to the
14 commencement of early voting as provided in s. 101.657
15 ~~election day~~, the supervisor of elections shall have the
16 automatic tabulating equipment publicly tested to ascertain
17 that the equipment will correctly count the votes cast for all
18 offices and on all measures. Public notice of the time and
19 place of the test shall be given at least 48 hours prior
20 thereto by publication once in one or more newspapers of
21 general circulation in the county or, if there is no newspaper
22 of general circulation in the county, by posting the such
23 notice in at least four conspicuous places in the county. The
24 supervisor or the municipal elections official may, at the
25 time of qualifying, give written notice of the time and
26 location of the such public preelection test to each candidate
27 qualifying with that office and obtain a signed receipt that
28 the such notice has been given. The Department of State shall
29 give written notice to each statewide candidate at the time of
30 qualifying, or immediately at the end of qualifying, that the
31 voting equipment will be tested and advise each ~~such~~ candidate

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1 to contact the county supervisor of elections as to the time
2 and location of the public preelection test. The supervisor or
3 the municipal elections official shall, at least 15 days prior
4 to the commencement of early voting as provided in s. 101.657
5 ~~an election~~, send written notice by certified mail to the
6 county party chair of each political party and to all
7 candidates for other than statewide office whose names appear
8 on the ballot in the county and who did not receive written
9 notification from the supervisor or municipal elections
10 official at the time of qualifying, stating the time and
11 location of the public preelection test of the automatic
12 tabulating equipment. The canvassing board shall convene, and
13 each member of the canvassing board shall certify to the
14 accuracy of the test. For the test, the canvassing board may
15 designate one member to represent it. The test shall be open
16 to representatives of the political parties, the press, and
17 the public. Each political party may designate one person with
18 expertise in the computer field who shall be allowed in the
19 central counting room when all tests are being conducted and
20 when the official votes are being counted. ~~The~~ ~~Such~~ designee
21 shall not interfere with the normal operation of the
22 canvassing board.

23 Section 11. Section 101.5613, Florida Statutes, is
24 amended to read:

25 101.5613 Examination of equipment during voting.--A
26 member of the election board or, for purposes of early voting
27 pursuant to s. 101.657, a representative of the supervisor of
28 elections, shall occasionally examine the face of the voting
29 device and the ballot information to determine that the device
30 and the ballot information have not been damaged or tampered
31 with.

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1 Section 12. Section 101.657, Florida Statutes, is
2 amended to read:

3 101.657 Early voting ~~absentee ballots in person.--~~
4 ~~(1) Any qualified and registered elector may pick up~~
5 ~~and vote an absentee ballot in person at the office of, and~~
6 ~~under the supervision of, the supervisor of elections. Before~~
7 ~~receiving the ballot, the elector must present a current and~~
8 ~~valid picture identification as provided in s. 97.0535(3)(a).~~
9 ~~If the elector fails to furnish the required identification,~~
10 ~~or if the supervisor is in doubt as to the identity of the~~
11 ~~elector, the supervisor must follow the procedure prescribed~~
12 ~~in s. 101.49. If the elector who fails to furnish the required~~
13 ~~identification is a first-time voter who registered by mail~~
14 ~~and has not provided the required identification to the~~
15 ~~supervisor of elections prior to voting, the elector shall be~~
16 ~~allowed to vote a provisional ballot. The canvassing board~~
17 ~~shall compare the signature on the provisional ballot envelope~~
18 ~~with the signature on the voter's registration and, if the~~
19 ~~signatures match, shall count the ballot.~~

20 ~~(1)(a)(2) As an alternative to the provisions of ss.~~
21 ~~101.64 and 101.65, The supervisor of elections shall may allow~~
22 ~~an elector to vote early cast an absentee ballot in the main~~
23 ~~or branch office of the supervisor by depositing the voted~~
24 ~~ballot in a voting device used by the supervisor to collect or~~
25 ~~tabulate ballots. In order for a branch office to be used for~~
26 ~~early voting, it shall be a full-service facility of the~~
27 ~~supervisor and shall have been designated as such at least 1~~
28 ~~year prior to the election. The supervisor may designate any~~
29 ~~city hall or public library as an early voting site; however,~~
30 ~~if so designated, the site must be geographically located so~~
31 ~~as to provide all voters in the county an equal opportunity to~~

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1 cast a ballot, insofar as is practicable. The results or
2 tabulation may not be made before the close of the polls on
3 election day.

4 (b) Early voting shall begin on the 15th day before an
5 election and end on the day before an election. For purposes
6 of a special election held pursuant to s. 100.101, early
7 voting shall begin on the 8th day before an election and end
8 on the day before an election. Early voting shall be provided
9 for at least 8 hours per weekday during the applicable
10 periods. Early voting shall also be provided for 8 hours in
11 the aggregate for each weekend during the applicable periods.

12 (2)(a) The elector must provide identification as
13 required in subsection (1) and must complete an Early Voting
14 ~~In-Office~~ Voter Certificate in substantially the following
15 form:

16
17 EARLY VOTING ~~IN-OFFICE~~ VOTER CERTIFICATE
18

19 I, _____, am a qualified elector in this election and
20 registered voter of _____ County, Florida. I do solemnly swear
21 or affirm that I am the person so listed on the voter
22 registration rolls of _____ County and that I reside at the
23 listed address. I understand that if I commit or attempt to
24 commit fraud in connection with voting, vote a fraudulent
25 ballot, or vote more than once in an election I could be
26 convicted of a felony of the third degree and both fined up to
27 \$5,000 and imprisoned for up to 5 years. I understand that my
28 failure to sign this certificate ~~and have my signature~~
29 ~~witnessed~~ invalidates my ballot.

30
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1 ... (Voter's Signature) ...

2

3 ... (Address) ...

4

5 ... (City/State) ...

6

7 ~~... (Name of Witness) ...~~

8 ~~... (Signature of Witness) ...~~

9 ~~... (Type of identification provided) ...~~

10 (b) Any elector may challenge an elector seeking to
11 vote early ~~cast an absentee ballot~~ under the provisions of s.
12 101.111. Any challenged voter ballot must vote ~~be placed in a~~
13 provisional ~~regular absentee~~ ballot ~~envelope~~. The canvassing
14 board shall review the ballot and decide the validity of the
15 ballot by majority vote.

16 (c) The canvass of returns for ballots cast under this
17 subsection shall be substantially the same as votes cast by
18 electors in precincts, as provided in s. 101.5614.

19 Section 13. Effective July 1, 2004, and operating
20 retroactively to January 1, 2002, subsection (3) of section
21 106.021, Florida Statutes, is amended to read:

22 106.021 Campaign treasurers; deputies; primary and
23 secondary depositories.--

24 (3) ~~Except for independent expenditures,~~ No
25 contribution or expenditure, including contributions or
26 expenditures of a candidate or of the candidate's family,
27 shall be directly or indirectly made or received in
28 furtherance of the candidacy of any person for nomination or
29 election to political office in the state or on behalf of any
30 political committee except through the duly appointed campaign
31 treasurer of the candidate or political committee, subject to

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1 ~~the following exceptions:; however,~~

2 (a) Independent expenditures;

3 (b) Reimbursements to a candidate or any other
4 ~~individual may be reimbursed for expenses incurred in~~
5 ~~connection with the campaign or activities of the political~~
6 ~~committee for travel, food and beverage, office supplies, and~~
7 ~~mementos expressing gratitude to campaign supporters by a~~
8 ~~check drawn upon the campaign account and reported pursuant to~~
9 ~~s. 106.07(4). After July 1, 2004, the full name and address of~~
10 ~~each person to whom the candidate or other individual made~~
11 ~~payment for which reimbursement was made by check drawn upon~~
12 ~~the campaign account shall be reported pursuant to s.~~
13 ~~106.07(4), together with the purpose of such payment;~~

14 (c) Expenditures made indirectly through a treasurer
15 for goods or services, such as communications media placement
16 or procurement services, campaign signs, insurance, or other
17 expenditures that include multiple integral components as part
18 of the expenditure and reported pursuant to s.
19 106.07(4)(a)13.; or

20 (d) In addition, Expenditures may be made directly by
21 any political committee or political party regulated by
22 chapter 103 for obtaining time, space, or services in or by
23 any communications medium for the purpose of jointly endorsing
24 three or more candidates, and any such expenditure shall not
25 be considered a contribution or expenditure to or on behalf of
26 any such candidates for the purposes of this chapter.

27 Section 14. Section 106.023, Florida Statutes, is
28 amended to read:

29 106.023 Statement of candidate.--

30 (1) Each candidate must file a statement with the
31 qualifying officer within 10 days after filing the appointment

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1 of campaign treasurer and designation of campaign depository,
2 stating that the candidate has read and understands the
3 requirements of this chapter. Such statement shall be provided
4 by the filing officer and shall be in substantially the
5 following form:

6 STATEMENT OF CANDIDATE

7

8 I, ____, candidate for the office of ____, have
9 received, read, and understand the requirements of Chapter
10 106, Florida Statutes.

11

12 . . . (Signature of candidate) (Date) . . .

13

14 Willful failure to file this form is a violation of ss.
15 106.19(1)(c) and 106.25(3), F.S.

16 (2) The execution and filing of the statement of
17 candidate does not in and of itself create a presumption that
18 any violation of this chapter or chapter 104 is a willful
19 violation as defined in s. 106.37.

20 Section 15. Paragraph (a) of subsection (8) of section
21 106.04, Florida Statutes, is amended to read:

22 106.04 Committees of continuous existence.--

23 (8)(a) Any committee of continuous existence failing
24 to file a report on the designated due date shall be subject
25 to a fine. The fine shall be \$50 per day for the first 3 days
26 late and, thereafter, \$500 per day for each late day, not to
27 exceed 25 percent of the total receipts or expenditures,
28 whichever is greater, for the period covered by the late
29 report. The fine shall be assessed by the filing officer, and
30 the moneys collected shall be deposited in the General Revenue
31 ~~Elections Commission Trust~~ Fund. No separate fine shall be

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1 assessed for failure to file a copy of any report required by
2 this section.

3 Section 16. Paragraph (a) of subsection (2), paragraph
4 (a) of subsection (4), and paragraphs (a), (c), and (d) of
5 subsection (8) of section 106.07, Florida Statutes, are
6 amended to read:

7 106.07 Reports; certification and filing.--

8 (2)(a) All reports required of a candidate by this
9 section shall be filed with the officer before whom the
10 candidate is required by law to qualify. All candidates who
11 file with the Department of State shall file the original and
12 one copy of their reports. In addition, a copy of each report
13 for candidates for other than statewide office who qualify
14 with the Department of State shall be filed with the
15 supervisor of elections in the county where the candidate
16 resides. Reports shall be filed not later than 5 p.m. of the
17 day designated; however, any report postmarked by the United
18 States Postal Service no later than midnight of the day
19 designated shall be deemed to have been filed in a timely
20 manner. Any report received by the filing officer within 5
21 days after the designated due date that was delivered by the
22 United States Postal Service shall be deemed timely filed
23 unless it has a postmark that indicates that the report was
24 mailed after the designated due date. A certificate of mailing
25 obtained from and dated by the United States Postal Service at
26 the time of mailing, or a receipt from an established courier
27 company, which bears a date on or before the date on which the
28 report is due, shall be proof of mailing in a timely manner.
29 Reports shall contain information of all previously unreported
30 contributions received and expenditures made as of the
31 preceding Friday, except that the report filed on the Friday

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1 immediately preceding the election shall contain information
2 of all previously unreported contributions received and
3 expenditures made as of the day preceding that designated due
4 date. All such reports shall be open to public inspection.

5 (4)(a) Each report required by this section shall
6 contain:

7 1. The full name, address, and occupation, if any of
8 each person who has made one or more contributions to or for
9 such committee or candidate within the reporting period,
10 together with the amount and date of such contributions. For
11 corporations, the report must provide as clear a description
12 as practicable of the principal type of business conducted by
13 the corporation. However, if the contribution is \$100 or less
14 or is from a relative, as defined in s. 112.312, provided that
15 the relationship is reported, the occupation of the
16 contributor or the principal type of business need not be
17 listed.

18 2. The name and address of each political committee
19 from which the reporting committee or the candidate received,
20 or to which the reporting committee or candidate made, any
21 transfer of funds, together with the amounts and dates of all
22 transfers.

23 3. Each loan for campaign purposes to or from any
24 person or political committee within the reporting period,
25 together with the full names, addresses, and occupations, and
26 principal places of business, if any, of the lender and
27 endorsers, if any, and the date and amount of such loans.

28 4. A statement of each contribution, rebate, refund,
29 or other receipt not otherwise listed under subparagraphs 1.
30 through 3.

31 5. The total sums of all loans, in-kind contributions,

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1 and other receipts by or for such committee or candidate
2 during the reporting period. The reporting forms shall be
3 designed to elicit separate totals for in-kind contributions,
4 loans, and other receipts.

5 6. The full name and address of each person to whom
6 expenditures have been made by or on behalf of the committee
7 or candidate within the reporting period; the amount, date,
8 and purpose of each such expenditure; and the name and address
9 of, and office sought by, each candidate on whose behalf such
10 expenditure was made. However, expenditures made from the
11 petty cash fund provided by s. 106.12 need not be reported
12 individually.

13 7. The full name and address of each person to whom an
14 expenditure for personal services, salary, or reimbursement
15 for authorized expenses as provided in s. 106.021(3) has been
16 made and which is not otherwise reported, including the
17 amount, date, and purpose of such expenditure. However,
18 expenditures made from the petty cash fund provided for in s.
19 106.12 need not be reported individually.

20 8. The total amount withdrawn and the total amount
21 spent for petty cash purposes pursuant to this chapter during
22 the reporting period.

23 9. The total sum of expenditures made by such
24 committee or candidate during the reporting period.

25 10. The amount and nature of debts and obligations
26 owed by or to the committee or candidate, which relate to the
27 conduct of any political campaign.

28 11. A copy of each credit card statement which shall
29 be included in the next report following receipt thereof by
30 the candidate or political committee. Receipts for each credit
31 card purchase shall be retained by the treasurer with the

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1 records for the campaign account.

2 12. The amount and nature of any separate
3 interest-bearing accounts or certificates of deposit and
4 identification of the financial institution in which such
5 accounts or certificates of deposit are located.

6 13. The primary purposes of an expenditure made
7 indirectly through a campaign treasurer pursuant to s.
8 106.021(3) for goods and services such as communications media
9 placement or procurement services, campaign signs, insurance,
10 and other expenditures that include multiple components as
11 part of the expenditure. The primary purpose of an expenditure
12 shall be that purpose, including integral and directly related
13 components, that comprises 80 percent of such expenditure.

14 (8)(a) Any candidate or political committee failing to
15 file a report on the designated due date shall be subject to a
16 fine as provided in paragraph (b) for each late day, and, in
17 the case of a candidate, such fine shall be paid only from
18 personal funds of the candidate. The fine shall be assessed by
19 the filing officer and the moneys collected shall be
20 deposited:

21 1. In the General Revenue ~~Elections Commission Trust~~
22 Fund, in the case of a candidate for state office or a
23 political committee that registers with the Division of
24 Elections; or

25 2. In the general revenue fund of the political
26 subdivision, in the case of a candidate for an office of a
27 political subdivision or a political committee that registers
28 with an officer of a political subdivision.

29
30 No separate fine shall be assessed for failure to file a copy
31 of any report required by this section.

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1 (c) Any candidate or chair of a political committee
2 may appeal or dispute the fine, based upon, but not limited
3 to, unusual circumstances surrounding the failure to file on
4 the designated due date, and may request and shall be entitled
5 to a hearing before the Florida Elections Commission, which
6 shall have the authority to waive the fine in whole or in
7 part. The Florida Elections Commission must consider the
8 mitigating and aggravating circumstances contained in s.
9 106.265(1) when determining the amount of a fine, if any, to
10 be waived. Any such request shall be made within 20 days after
11 receipt of the notice of payment due. In such case, the
12 candidate or chair of the political committee shall, within
13 the 20-day period, notify the filing officer in writing of his
14 or her intention to bring the matter before the commission.

15 (d) The appropriate filing officer shall notify the
16 Florida Elections Commission of the repeated late filing by a
17 candidate or political committee, the failure of a candidate
18 or political committee to file a report after notice, or the
19 failure to pay the fine imposed. The commission shall
20 investigate only those alleged late filing violations
21 specifically identified by the filing officer and as set forth
22 in the notification. Any other alleged violations must be
23 separately stated and reported by the division to the
24 commission under s. 106.25(2).

25 Section 17. Effective January 1, 2005, paragraph (a)
26 of subsection (2) of section 106.07, Florida Statutes, as
27 amended by this act, and paragraph (b) of subsection (2),
28 subsection (3), and paragraph (b) of subsection (8) of said
29 section, are amended to read:

30 106.07 Reports; certification and filing.--

31 (2)(a) All reports required of a candidate by this

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1 section shall be filed with the officer before whom the
2 candidate is required by law to qualify. All candidates who
3 file with the Department of State shall file ~~the original and~~
4 ~~one copy of~~ their reports pursuant to s. 106.0705. In
5 addition, a copy of each report for candidates for other than
6 statewide office who qualify with the Department of State
7 shall be filed with the supervisor of elections in the county
8 where the candidate resides. Except as provided in s.
9 106.0705, reports shall be filed not later than 5 p.m. of the
10 day designated; however, any report postmarked by the United
11 States Postal Service no later than midnight of the day
12 designated shall be deemed to have been filed in a timely
13 manner. Any report received by the filing officer within 5
14 days after the designated due date that was delivered by the
15 United States Postal Service shall be deemed timely filed
16 unless it has a postmark that indicates that the report was
17 mailed after the designated due date. A certificate of mailing
18 obtained from and dated by the United States Postal Service at
19 the time of mailing, or a receipt from an established courier
20 company, which bears a date on or before the date on which the
21 report is due, shall be proof of mailing in a timely manner.
22 Reports shall contain information of all previously unreported
23 contributions received and expenditures made as of the
24 preceding Friday, except that the report filed on the Friday
25 immediately preceding the election shall contain information
26 of all previously unreported contributions received and
27 expenditures made as of the day preceding that designated due
28 date. All such reports shall be open to public inspection.

29 (b)1. Any report which is deemed to be incomplete by
30 the officer with whom the candidate qualifies shall be
31 accepted on a conditional basis, and the campaign treasurer

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1 shall be notified by registered mail as to why the report is
2 incomplete and be given 3 days from receipt of such notice to
3 file an addendum to the report providing all information
4 necessary to complete the report in compliance with this
5 section. Failure to file a complete report after such notice
6 constitutes a violation of this chapter.

7 2. In lieu of the notice by registered mail as
8 required in subparagraph 1., the qualifying officer may notify
9 the campaign treasurer by telephone that the report is
10 incomplete and request the information necessary to complete
11 the report. If, however, such information is not received by
12 the qualifying officer within 3 days after of the telephone
13 request therefor, notice shall be sent by registered mail as
14 provided in subparagraph 1.

15 (3) Reports required of a political committee shall be
16 filed with the agency or officer before whom such committee
17 registers pursuant to s. 106.03(3) and shall be subject to the
18 same filing conditions as established for candidates' reports.
19 ~~Only committees that file with the Department of State shall~~
20 ~~file the original and one copy of their reports.~~ Incomplete
21 reports by political committees shall be treated in the manner
22 provided for incomplete reports by candidates in subsection
23 (2).

24 (8)

25 (b) Upon determining that a report is late, the filing
26 officer shall immediately notify the candidate or chair of the
27 political committee as to the failure to file a report by the
28 designated due date and that a fine is being assessed for each
29 late day. The fine shall be \$50 per day for the first 3 days
30 late and, thereafter, \$500 per day for each late day, not to
31 exceed 25 percent of the total receipts or expenditures,

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1 whichever is greater, for the period covered by the late
2 report. However, for the reports immediately preceding each
3 primary and general election, the fine shall be \$500 per day
4 for each late day, not to exceed 25 percent of the total
5 receipts or expenditures, whichever is greater, for the period
6 covered by the late report. For reports required under s.
7 106.141(7), the fine is \$50 per day for each late day, not to
8 exceed 25 percent of the total receipts or expenditures,
9 whichever is greater, for the period covered by the late
10 report. Upon receipt of the report, the filing officer shall
11 determine the amount of the fine which is due and shall notify
12 the candidate or chair. The filing officer shall determine the
13 amount of the fine due based upon the earliest of the
14 following:

15 1. When the report is actually received by such
16 officer.

17 2. When the report is postmarked.

18 3. When the certificate of mailing is dated.

19 4. When the receipt from an established courier
20 company is dated.

21 5. When the electronic receipt issued pursuant to s.
22 106.0705 is dated.

23

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

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1 Section 18. Effective January 1, 2005, section
2 106.0705, Florida Statutes, is created to read:

3 106.0705 Electronic filing of campaign treasurer's
4 reports.--

5 (1) As used in this section, "electronic filing
6 system" means an Internet system for recording and reporting
7 campaign finance activity by reporting period.

8 (2)(a) Each candidate who is required to file reports
9 pursuant to s. 106.07 with the division must file such reports
10 with the division by means of the division's electronic filing
11 system.

12 (b) Each political committee, committee of continuous
13 existence, or state executive committee that is required to
14 file reports with the division under s. 106.04, s. 106.07, or
15 s. 106.29, as applicable, must file such reports with the
16 division by means of the division's electronic filing system.

17 (c) Each person or organization that is required to
18 file reports with the division under s. 106.071 must file such
19 reports with the division by means of the division's
20 electronic filing system.

21 (3) Reports filed pursuant to this section shall be
22 completed and filed through the electronic filing system not
23 later than midnight of the day designated. Reports not filed
24 by midnight of the day designated are late filed and are
25 subject to the penalties under s. 106.04(8), s. 106.07(8), or
26 s. 106.29(3), as applicable.

27 (4) Each report filed pursuant to this section is
28 considered to be under oath by the candidate and treasurer or
29 the chair and treasurer, whichever is applicable, and such
30 persons are subject to the provisions of s. 106.04(4)(d), s.
31 106.07(5), or s. 106.29(2), as applicable. Persons given a

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1 secure sign-on to the electronic filing system are responsible
2 for protecting such from disclosure and are responsible for
3 all filings using such credentials, unless they have notified
4 the division that their credentials have been compromised.

5 (5) The electronic filing system developed by the
6 division must:

7 (a) Be based on access by means of the Internet.

8 (b) Be accessible by anyone with Internet access using
9 standard web-browsing software.

10 (c) Provide for direct entry of campaign finance
11 information as well as upload of such information from
12 campaign finance software certified by the division.

13 (d) Provide a method that prevents unauthorized access
14 to electronic filing system functions.

15 (6) The division shall adopt rules pursuant to ss.
16 120.536(1) and 120.54 to administer this section and provide
17 for the reports required to be filed pursuant to this section.

18 Such rules shall, at a minimum, provide:

19 (a) Alternate filing procedures in case the division's
20 electronic filing system is not operable.

21 (b) For the issuance of an electronic receipt to the
22 person submitting the report indicating and verifying that the
23 report has been filed.

24 Section 19. Paragraph (a) of subsection (4) and
25 subsection (6) of section 106.141, Florida Statutes, are
26 amended to read:

27 106.141 Disposition of surplus funds by candidates.--

28 (4)(a) Except as provided in paragraph (b), any
29 candidate required to dispose of funds pursuant to this
30 section shall, at the option of the candidate, dispose of such
31 funds by any of the following means, or any combination

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1 thereof:

2 1. Return pro rata to each contributor the funds that
3 have not been spent or obligated.

4 2. Donate the funds that have not been spent or
5 obligated to a charitable organization or organizations that
6 meet the qualifications of s. 501(c)(3) of the Internal
7 Revenue Code.

8 3. Give not more than \$10,000 of the funds that have
9 not been spent or obligated to the political party of which
10 such candidate is a member, except that a candidate for the
11 Florida Senate may give not more than \$30,000 of such funds to
12 the political party of which the candidate is a member.

13 4. Give the funds that have not been spent or
14 obligated:

15 a. In the case of a candidate for state office, to the
16 state, to be deposited in either the Election Campaign
17 Financing Trust Fund or the General Revenue Fund, as
18 designated by the candidate; or

19 b. In the case of a candidate for an office of a
20 political subdivision, to such political subdivision, to be
21 deposited in the general fund thereof.

22 (6) Prior to disposing of funds pursuant to subsection
23 (4) or transferring funds into an office account pursuant to
24 subsection (5), any candidate who filed an oath stating that
25 he or she was unable to pay the election assessment or fee for
26 verification of petition signatures without imposing an undue
27 burden on his or her personal resources or on resources
28 otherwise available to him or her, or who filed both such
29 oaths, or who qualified by the alternative method and was not
30 required to pay an election assessment, shall reimburse the
31 state or local governmental entity, whichever is applicable,

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1 for such waived assessment or fee or both. Such reimbursement
 2 shall be made first for the cost of petition verification and
 3 then, if funds are remaining, for the amount of the election
 4 assessment. If there are insufficient funds in the account to
 5 pay the full amount of either the assessment or the fee or
 6 both, the remaining funds shall be disbursed in the above
 7 manner until no funds remain. All funds disbursed pursuant to
 8 this subsection shall be remitted to the qualifying officer.
 9 Any reimbursement for petition verification costs which are
 10 reimbursable by the state shall be forwarded by the qualifying
 11 officer to the state for deposit in the General Revenue Fund.
 12 All reimbursements for the amount of the election assessment
 13 shall be forwarded by the qualifying officer to the Department
 14 of State for deposit in the General Revenue Elections
 15 ~~Commission Trust~~ Fund.

16 Section 20. Subsections (2) and (4) of section 106.25,
 17 Florida Statutes, are amended to read:

18 106.25 Reports of alleged violations to Florida
 19 Elections Commission; disposition of findings.--

20 (2) The commission shall investigate all violations of
 21 this chapter and chapter 104, but only after having received
 22 either a sworn complaint or information reported to it under
 23 this subsection by the Division of Elections. Any person,
 24 other than the division, having information of any violation
 25 of this chapter or chapter 104 shall file a sworn complaint
 26 with the commission. The commission shall investigate only
 27 those alleged violations specifically contained within the
 28 sworn complaint. If any complainant fails to allege all
 29 violations that arise from the facts or allegations alleged in
 30 a complaint, the commission shall be barred from investigating
 31 a subsequent complaint from such complainant that is based

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1 upon such facts or allegations that were raised or could have
2 been raised in the first complaint. Such sworn complaint shall
3 state whether a complaint of the same violation has been made
4 to any state attorney. Within 5 days after receipt of a sworn
5 complaint, the commission shall transmit a copy of the
6 complaint to the alleged violator. All sworn complaints
7 alleging violations of the Florida Election Code over which
8 the commission has jurisdiction shall be filed with the
9 commission within 2 years after ~~of~~ the alleged violations. The
10 period of limitations is tolled on the day a sworn complaint
11 is filed with the commission.

12 (4) The commission shall undertake a preliminary
13 investigation to determine if the facts alleged in a sworn
14 complaint or a matter initiated by the division constitute
15 probable cause to believe that a violation has occurred. The
16 respondent, the complainant, and their respective counsels
17 shall be permitted to attend the hearing at which the probable
18 cause determination is made. Notice of the hearing shall be
19 sent to the respondent and the complainant at least 14 days
20 prior to the date of the hearing. The respondent and his or
21 her counsel shall be permitted to make a brief oral statement
22 in the nature of oral argument to the commission before the
23 probable cause determination. The commission's determination
24 shall be based upon the investigator's report, the complaint,
25 and staff recommendations, as well as any written statements
26 submitted by the respondent and any oral statements made at
27 the hearing. No testimony or other evidence shall be accepted
28 at the hearing. Upon completion of the preliminary
29 investigation, the commission shall, by written report, find
30 probable cause or no probable cause to believe that this
31 chapter or chapter 104 has been violated.

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1 (a) If no probable cause is found, the commission
2 shall dismiss the case and the case shall become a matter of
3 public record, except as otherwise provided in this section,
4 together with a written statement of the findings of the
5 preliminary investigation and a summary of the facts which the
6 commission shall send to the complainant and the alleged
7 violator.

8 (b) If probable cause is found, the commission shall
9 so notify the complainant and the alleged violator in writing.
10 All documents made or received in the disposition of the
11 complaint shall become public records upon a finding by the
12 commission.

13

14 In a case where probable cause is found, the commission shall
15 make a preliminary determination to consider the matter or to
16 refer the matter to the state attorney for the judicial
17 circuit in which the alleged violation occurred.

18 Section 21. Subsection (5) is added to section
19 106.265, Florida Statutes, to read:

20 106.265 Civil penalties.--

21 (5) In any case in which the commission determines
22 that a person has filed a complaint against another person
23 with a malicious intent to injure the reputation of the person
24 complained against by filing the complaint with knowledge that
25 the complaint contains one or more false allegations or with
26 reckless disregard for whether the complaint contains false
27 allegations of fact material to a violation of this chapter or
28 chapter 104, the complainant shall be liable for costs and
29 reasonable attorney's fees incurred in the defense of the
30 person complained against, including the costs and reasonable
31 attorney's fees incurred in proving entitlement to and the

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1 amount of costs and fees. If the complainant fails to pay such
 2 costs and fees voluntarily within 30 days following such
 3 finding by the commission, the commission shall forward such
 4 information to the Department of Legal Affairs, which shall
 5 bring a civil action in a court of competent jurisdiction to
 6 recover the amount of such costs and fees awarded by the
 7 commission.

8 Section 22. Paragraph (a) of subsection (3) of section
 9 106.29, Florida Statutes, is amended to read:

10 106.29 Reports by political parties; restrictions on
 11 contributions and expenditures; penalties.--

12 (3)(a) Any state or county executive committee failing
 13 to file a report on the designated due date shall be subject
 14 to a fine as provided in paragraph (b) for each late day. The
 15 fine shall be assessed by the filing officer, and the moneys
 16 collected shall be deposited in the General Revenue Elections
 17 ~~Commission Trust~~ Fund.

18 Section 23. Effective January 1, 2005, paragraph (b)
 19 of subsection (3) of section 106.29, Florida Statutes, is
 20 amended to read:

21 106.29 Reports by political parties; restrictions on
 22 contributions and expenditures; penalties.--

23 (3)

24 (b) Upon determining that a report is late, the filing
 25 officer shall immediately notify the chair of the executive
 26 committee as to the failure to file a report by the designated
 27 due date and that a fine is being assessed for each late day.
 28 The fine shall be \$1,000 for a state executive committee, and
 29 \$50 for a county executive committee, per day for each late
 30 day, not to exceed 25 percent of the total receipts or
 31 expenditures, whichever is greater, for the period covered by

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1 the late report. However, if an executive committee fails to
 2 file a report on the Friday immediately preceding the general
 3 election, the fine shall be \$10,000 per day for each day a
 4 state executive committee is late and \$500 per day for each
 5 day a county executive committee is late. Upon receipt of the
 6 report, the filing officer shall determine the amount of the
 7 fine which is due and shall notify the chair. The filing
 8 officer shall determine the amount of the fine due based upon
 9 the earliest of the following:

- 10 1. When the report is actually received by such
 11 officer.
- 12 2. When the report is postmarked.
- 13 3. When the certificate of mailing is dated.
- 14 4. When the receipt from an established courier
 15 company is dated.
- 16 5. When the electronic receipt issued pursuant to s.
 17 106.0705 is dated.

18
 19 Such fine shall be paid to the filing officer within 20 days
 20 after receipt of the notice of payment due, unless appeal is
 21 made to the Florida Elections Commission pursuant to paragraph
 22 (c). An officer or member of an executive committee shall not
 23 be personally liable for such fine.

24 Section 24. To provide for uniformity of the
 25 proceedings, the amendments contained in this act to sections
 26 106.021, 106.023, 106.04(8), 106.07, and 106.25, Florida
 27 Statutes, which take effect July 1, 2004 shall apply to all
 28 cases before the Florida Elections Commission pending on or
 29 filed on or after the effective date of this act.

30 Section 25. If any provision of this act or its
 31 application to any person or circumstance is held invalid, the

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1 invalidity does not affect other provisions or applications of
2 the act which can be given effect without the invalid
3 provision or application, and to this end the provisions of
4 this act are severable.

5 Section 26. Except as otherwise provided herein, this
6 act shall take effect July 1, 2004.

7

8

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

10 And the title is amended as follows:

11 On page 1, line 26, delete that line

12

13 and insert:

14 messages; amending s. 97.021, F.S.; defining
15 the term "early voting"; amending s. 101.015,
16 F.S.; requiring supervisors of elections to
17 include written procedures for early voting in
18 their accuracy and security procedures and to
19 submit any revisions to those security
20 procedures within a specified period before
21 early voting commences; amending s. 101.5612,
22 F.S.; providing for testing of tabulating
23 equipment prior to commencement of early voting
24 and notice thereof; amending s. 101.5613, F.S.;
25 specifying the person responsible for
26 examination of equipment for purposes of early
27 voting; amending s. 101.657, F.S.; authorizing
28 and providing requirements for early voting;
29 providing for designation of certain facilities
30 as early voting sites; amending s. 106.021,
31 F.S.; providing exceptions to a prohibition

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1 against making certain contributions or
2 expenditures in connection with a campaign or
3 activities of a political committee;
4 authorizing reimbursement of expenses incurred
5 in connection with a campaign or activities of
6 a political committee; requiring disclosure of
7 the names and addresses of persons reimbursed
8 from a campaign account; providing for
9 retroactive operation; amending s. 106.023,
10 F.S.; providing that the execution and filing
11 of the statement of candidate does not in and
12 of itself create a presumption that a violation
13 of ch. 106 or ch. 104, F.S., is a willful
14 violation; amending s. 106.04, F.S.; reducing
15 the fine for late filing of campaign finance
16 reports by committees of continuous existence
17 for the first 3 days; providing for deposit of
18 fine proceeds into the General Revenue Fund;
19 amending s. 106.07, F.S.; revising requirements
20 for filing campaign reports; revising
21 requirements with respect to timely filing of
22 mailed reports; requiring the reporting of the
23 primary purposes of certain expenditures made
24 indirectly through a campaign treasurer for
25 certain goods and services; expanding grounds
26 for appealing or disputing a fine; requiring
27 the Florida Elections Commission to consider
28 mitigating and aggravating circumstances in
29 determining the amount of a fine, if any, to be
30 waived for late-filed reports; providing for
31 deposit of certain fine proceeds into the

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1 General Revenue Fund; limiting investigation of
2 alleged late filing violations; providing for
3 electronic filing of reports; allowing
4 electronic receipts to be used as proof of
5 filing; creating s. 106.0705, F.S.; providing
6 for electronic filing of campaign finance
7 reports; providing standards and guidelines;
8 providing penalties; providing for adoption of
9 rules; amending s. 106.141, F.S.; increasing
10 the amount of surplus funds a candidate for the
11 Florida Senate can turn back to a political
12 party; providing for deposit into the General
13 Revenue Fund of reimbursed election
14 assessments; amending s. 106.25, F.S.;
15 restricting the alleged violations the
16 commission may investigate to those
17 specifically contained within a sworn
18 complaint; providing restrictions on subsequent
19 complaints based on the same facts or
20 allegations as a prior complaint; authorizing
21 respondents and complainants and their counsels
22 to attend hearings at which probable cause is
23 determined; requiring prior notice; permitting
24 a brief oral statement; specifying bases for
25 determining probable cause; amending s.
26 106.265, F.S.; providing liability of
27 complainants for costs and reasonable
28 attorney's fees under certain circumstances;
29 providing for civil actions to collect such
30 costs and fees; amending s. 106.29, F.S.;
31 providing that the proceeds of funds assessed

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1 against political parties for the late filing
2 of reports shall be deposited into the General
3 Revenue Fund; providing for determination of
4 fine for electronically filed campaign finance
5 reports; providing applicability of certain
6 provisions of the bill to pending and future
7 cases before the Florida Elections Commission;
8 providing for severability; providing effective
9 dates.

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