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2 An act relating to elections; providing a short  
3 title; amending s. 106.011, F.S.; redefining  
4 the terms "political committee,"  
5 "contribution," "expenditure," "independent  
6 expenditure," "communications media," and  
7 "political advertisement"; defining the term  
8 "electioneering communication"; amending s.  
9 106.04, F.S.; modifying contribution reporting  
10 requirements for committees of continuous  
11 existence; modifying prohibitions on activities  
12 of committees of continuous existence; amending  
13 s. 106.071, F.S.; establishing reporting  
14 requirements for certain individuals making  
15 electioneering communications; modifying  
16 sponsorship disclaimer requirements for  
17 independent expenditures; creating an  
18 exemption; deleting a limitation on  
19 contributions to fund independent expenditures;  
20 amending s. 106.143, F.S.; modifying  
21 sponsorship disclaimer requirements for  
22 political advertisements; amending s. 106.1437,  
23 F.S.; creating exemptions to disclaimer  
24 requirements for certain public policy  
25 advertisements; creating s. 106.1439, F.S.;  
26 creating disclaimer requirements for  
27 electioneering communications; providing  
28 penalties; repealing s. 106.148, F.S., relating  
29 to sponsorship disclaimer requirements for  
30 certain computer messages; amending s. 97.021,  
31 F.S.; defining the term "early voting";

1 | amending s. 101.015, F.S.; requiring  
2 | supervisors of elections to include written  
3 | procedures for early voting in their accuracy  
4 | and security procedures and to submit any  
5 | revisions to those security procedures within a  
6 | specified period before early voting commences;  
7 | amending s. 101.5612, F.S.; providing for  
8 | testing of tabulating equipment prior to  
9 | commencement of early voting and notice  
10 | thereof; amending s. 101.5613, F.S.; specifying  
11 | the person responsible for examination of  
12 | equipment for purposes of early voting;  
13 | amending s. 101.657, F.S.; authorizing and  
14 | providing requirements for early voting;  
15 | providing for designation of certain facilities  
16 | as early voting sites; amending s. 106.021,  
17 | F.S.; providing exceptions to a prohibition  
18 | against making certain contributions or  
19 | expenditures in connection with a campaign or  
20 | activities of a political committee;  
21 | authorizing reimbursement of expenses incurred  
22 | in connection with a campaign or activities of  
23 | a political committee; requiring disclosure of  
24 | the names and addresses of persons reimbursed  
25 | from a campaign account; providing for  
26 | retroactive operation; amending s. 106.023,  
27 | F.S.; providing that the execution and filing  
28 | of the statement of candidate does not in and  
29 | of itself create a presumption that a violation  
30 | of ch. 106 or ch. 104, F.S., is a willful  
31 | violation; amending s. 106.04, F.S.; reducing

1 the fine for late filing of campaign finance  
2 reports by committees of continuous existence  
3 for the first 3 days; providing for deposit of  
4 fine proceeds into the General Revenue Fund;  
5 amending s. 106.07, F.S.; revising requirements  
6 for filing campaign reports; revising  
7 requirements with respect to timely filing of  
8 mailed reports; requiring the reporting of the  
9 primary purposes of certain expenditures made  
10 indirectly through a campaign treasurer for  
11 certain goods and services; expanding grounds  
12 for appealing or disputing a fine; requiring  
13 the Florida Elections Commission to consider  
14 mitigating and aggravating circumstances in  
15 determining the amount of a fine, if any, to be  
16 waived for late-filed reports; providing for  
17 deposit of certain fine proceeds into the  
18 General Revenue Fund; limiting investigation of  
19 alleged late filing violations; providing for  
20 electronic filing of reports; allowing  
21 electronic receipts to be used as proof of  
22 filing; creating s. 106.0705, F.S.; providing  
23 for electronic filing of campaign finance  
24 reports; providing standards and guidelines;  
25 providing penalties; providing for adoption of  
26 rules; amending s. 106.141, F.S.; increasing  
27 the amount of surplus funds a candidate for the  
28 Florida Senate can turn back to a political  
29 party; providing for deposit into the General  
30 Revenue Fund of reimbursed election  
31 assessments; amending s. 106.25, F.S.;

1           restricting the alleged violations the  
2           commission may investigate to those  
3           specifically contained within a sworn  
4           complaint; providing restrictions on subsequent  
5           complaints based on the same facts or  
6           allegations as a prior complaint; authorizing  
7           respondents and complainants and their counsels  
8           to attend hearings at which probable cause is  
9           determined; requiring prior notice; permitting  
10          a brief oral statement; specifying bases for  
11          determining probable cause; amending s.  
12          106.265, F.S.; providing liability of  
13          complainants for costs and reasonable  
14          attorney's fees under certain circumstances;  
15          providing for civil actions to collect such  
16          costs and fees; amending s. 106.29, F.S.;  
17          providing that the proceeds of funds assessed  
18          against political parties for the late filing  
19          of reports shall be deposited into the General  
20          Revenue Fund; providing for determination of  
21          fine for electronically filed campaign finance  
22          reports; providing for severability; providing  
23          effective dates.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. This act may be cited as the "Florida  
28 Advertising Campaign Exposure Act."

29           Section 2. Section 106.011, Florida Statutes, is  
30 amended to read:

31

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;-

21           2. The sponsor of a proposed constitutional amendment  
22 by initiative who intends to seek the signatures of registered  
23 electors.

24           (b) Notwithstanding paragraph (a), the following  
25 entities are not considered political committees for purposes  
26 of this chapter:

27           1. Organizations which are certified by the Department  
28 of State as committees of continuous existence pursuant to s.  
29 106.04, national political parties, and the state and county  
30 executive committees of political parties regulated by chapter  
31 103.

1           2. Corporations regulated by chapter 607 or chapter  
2 617 or other business entities formed for purposes other than  
3 to support or oppose issues or candidates, if their political  
4 activities are limited to contributions to candidates,  
5 political parties, or political committees or expenditures in  
6 support of or opposition to an issue from corporate or  
7 business funds and if no contributions are received by such  
8 corporations or business entities.

9           3. Organizations whose activities are limited to  
10 making expenditures for electioneering communications or  
11 accepting contributions for the purpose of making  
12 electioneering communications; however, such organizations  
13 shall be required to register and report contributions,  
14 including those received from committees of continuous  
15 existence, and expenditures in the same manner, at the same  
16 time, subject to the same penalties, and with the same filing  
17 officer as a political committee supporting or opposing a  
18 candidate or issue contained in the electioneering  
19 communication. If any such organization would be required to  
20 register and report with more than one filing officer, the  
21 organization shall register and report solely with the  
22 Division of Elections.

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

26           (3) "Contribution" means:

27           (a) A gift, subscription, conveyance, deposit, loan,  
28 payment, or distribution of money or anything of value,  
29 including contributions in kind having an attributable  
30 monetary value in any form, made for the purpose of  
31

1 | influencing the results of an election or making an  
2 | electioneering communication.

3 |         (b) A transfer of funds between political committees,  
4 | between committees of continuous existence, or between a  
5 | political committee and a committee of continuous existence.

6 |         (c) 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 candidate  
9 | or political committee without charge to the candidate or  
10 | committee for such services.

11 |         (d) The transfer of funds by a campaign treasurer or  
12 | deputy campaign treasurer between a primary depository and a  
13 | separate interest-bearing account or certificate of deposit,  
14 | and the term includes any interest earned on such account or  
15 | certificate.

16 |  
17 | Notwithstanding the foregoing meanings of "contribution," the  
18 | word shall not be construed to include services, including,  
19 | but not limited to, legal and accounting services, provided  
20 | without compensation by individuals volunteering a portion or  
21 | all of their time on behalf of a candidate or political  
22 | committee. This definition shall not be construed to include  
23 | editorial endorsements.

24 |         (4)(a) "Expenditure" means a purchase, payment,  
25 | distribution, loan, advance, transfer of funds by a campaign  
26 | treasurer or deputy campaign treasurer between a primary  
27 | depository and a separate interest-bearing account or  
28 | certificate of deposit, or gift of money or anything of value  
29 | made for the purpose of influencing the results of an election  
30 | or making an electioneering communication. However,  
31 | "expenditure" does not include a purchase, payment,

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

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

13 1. A person executes a contract for applicable goods  
14 or services;

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

17 3. The electioneering communication is publicly  
18 disseminated.

19 (5)(a) "Independent expenditure" means an expenditure  
20 by a person for the purpose of expressly advocating the  
21 election or defeat of a candidate or the approval or rejection  
22 of an issue, which expenditure is not controlled by,  
23 coordinated with, or made upon consultation with, any  
24 candidate, political committee, or agent of such candidate or  
25 committee. An expenditure for such purpose by a person having  
26 a contract with the candidate, political committee, or agent  
27 of such candidate or committee in a given election period  
28 shall not be deemed an independent expenditure.

29 (b) An expenditure for the purpose of expressly  
30 advocating the election or defeat of a candidate which is made  
31 by the national, state, or county executive committee of a



1 political party, including any subordinate committee of a  
2 national, state, or county committee of a political party, or  
3 by any political committee or committee of continuous  
4 existence, or any other person, shall not be considered an  
5 independent expenditure if the committee or person:

6       1. Communicates with the candidate, the candidate's  
7 campaign, or an agent of the candidate acting on behalf of the  
8 candidate, including any pollster, media consultant,  
9 advertising agency, vendor, advisor, or staff member,  
10 concerning the preparation of, use of, or payment for, the  
11 specific expenditure or advertising campaign at issue; or

12       2. Makes a payment in cooperation, consultation, or  
13 concert with, at the request or suggestion of, or pursuant to  
14 any general or particular understanding with the candidate,  
15 the candidate's campaign, a political committee supporting the  
16 candidate, or an agent of the candidate relating to the  
17 specific expenditure or advertising campaign at issue; or

18       3. Makes a payment for the dissemination,  
19 distribution, or republication, in whole or in part, of any  
20 broadcast or any written, graphic, or other form of campaign  
21 material prepared by the candidate, the candidate's campaign,  
22 or an agent of the candidate, including any pollster, media  
23 consultant, advertising agency, vendor, advisor, or staff  
24 member; or

25       4. Makes a payment based on information about the  
26 candidate's plans, projects, or needs communicated to a member  
27 of the committee or person by the candidate or an agent of the  
28 candidate, provided the committee or person uses the  
29 information in any way, in whole or in part, either directly  
30 or indirectly, to design, prepare, or pay for the specific  
31 expenditure or advertising campaign at issue; or

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

7           a. Any officer, director, employee, or agent of a  
8 national, state, or county executive committee of a political  
9 party that has made or intends to make expenditures in  
10 connection with or contributions to the candidate; or

11           b. Any person whose professional services have been  
12 retained by a national, state, or county executive committee  
13 of a political party that has made or intends to make  
14 expenditures in connection with or contributions to the  
15 candidate; or

16           6. After the last day of qualifying for statewide or  
17 legislative office, retains the professional services of any  
18 person also providing those services to the candidate in  
19 connection with the candidate's pursuit of election to office;  
20 or

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

23           (6) "Election" means any primary election, special  
24 primary election, general election, special election, or  
25 municipal election held in this state for the purpose of  
26 nominating or electing candidates to public office, choosing  
27 delegates to the national nominating conventions of political  
28 parties, or submitting an issue to the electors for their  
29 approval or rejection.

30           (7) "Issue" means any proposition which is required by  
31 the State Constitution, by law or resolution of the

1 | Legislature, or by the charter, ordinance, or resolution of  
2 | any political subdivision of this state to be submitted to the  
3 | electors for their approval or rejection at an election, or  
4 | any proposition for which a petition is circulated in order to  
5 | have such proposition placed on the ballot at any election.

6 |         (8) "Person" means an individual or a corporation,  
7 | association, firm, partnership, joint venture, joint stock  
8 | company, club, organization, estate, trust, business trust,  
9 | syndicate, or other combination of individuals having  
10 | collective capacity. The term includes a political party,  
11 | political committee, or committee of continuous existence.

12 |         (9) "Campaign treasurer" means an individual appointed  
13 | by a candidate or political committee as provided in this  
14 | chapter.

15 |         (10) "Public office" means any state, county,  
16 | municipal, or school or other district office or position  
17 | which is filled by vote of the electors.

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

20 |         (12) "Division" means the Division of Elections of the  
21 | Department of State.

22 |         (13) "Communications media" means broadcasting  
23 | stations, newspapers, magazines, outdoor advertising  
24 | facilities, printers, direct mailing companies, advertising  
25 | agencies, the Internet, and telephone companies; but with  
26 | respect to telephones, an expenditure shall be deemed to be an  
27 | expenditure for the use of communications media only if made  
28 | for the costs of telephones, paid telephonists, or automatic  
29 | telephone equipment to be used by a candidate or a political  
30 | committee to communicate with potential voters but excluding  
31 | any costs of telephones incurred by a volunteer for use of

1 telephones by such volunteer; however, with respect to the  
2 Internet, an expenditure shall be deemed an expenditure for  
3 use of communications media only if made for the cost of  
4 creating or disseminating a message on a computer information  
5 system accessible by more than one person but excluding  
6 internal communications of a campaign or of any group.

7 (14) "Filing officer" means the person before whom a  
8 candidate qualifies, the agency or officer with whom a  
9 political committee registers, or the agency by whom a  
10 committee of continuous existence is certified.

11 (15) "Unopposed candidate" means a candidate for  
12 nomination or election to an office who, after the last day on  
13 which any person, including a write-in candidate, may qualify,  
14 is without opposition in the election at which the office is  
15 to be filled or who is without such opposition after such date  
16 as a result of any primary election or of withdrawal by other  
17 candidates seeking the same office. A candidate is not an  
18 unopposed candidate if there is a vacancy to be filled under  
19 s. 100.111(4), if there is a legal proceeding pending  
20 regarding the right to a ballot position for the office sought  
21 by the candidate, or if the candidate is seeking retention as  
22 a justice or judge.

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

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

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

29 (c) Any person who receives contributions or makes  
30 expenditures, or consents for any other person to receive  
31 contributions or make expenditures, with a view to bring about

1 his or her nomination or election to, or retention in, public  
2 office.

3 (d) Any person who appoints a treasurer and designates  
4 a primary depository.

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

7  
8 However, this definition does not include any candidate for a  
9 political party executive committee.

10 (17) "Political advertisement" means a paid expression  
11 in any communications media prescribed in subsection (13),  
12 whether radio, television, newspaper, magazine, periodical,  
13 campaign literature, direct mail, or display or by means other  
14 than the spoken word in direct conversation, which expressly  
15 advocates the election or defeat of a candidate or the  
16 approval or rejection of an issue ~~shall support or oppose any~~  
17 ~~candidate, elected public official, or issue.~~ However,  
18 political advertisement does not include:

19 (a) A statement by an organization, in existence prior  
20 to the time during which a candidate qualifies or an issue is  
21 placed on the ballot for that election, in support of or  
22 opposition to a candidate or issue, in that organization's  
23 newsletter, which newsletter is distributed only to the  
24 members of that organization.

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

27 (18)(a) "Electioneering communication" means a paid  
28 expression in any communications media prescribed in  
29 subsection (13) by means other than the spoken word in direct  
30 conversation that:

31

1           1. Refers to or depicts a clearly identified candidate  
2 for office or contains a clear reference indicating that an  
3 issue is to be voted on at an election, without expressly  
4 advocating the election or defeat of a candidate or the  
5 passage or defeat of an issue.

6           2. For communications referring to or depicting a  
7 clearly identified candidate for office, is targeted to the  
8 relevant electorate. A communication is considered targeted if  
9 1,000 or more persons in the geographic area the candidate  
10 would represent if elected will receive the communication.

11           3. For communications referring to or depicting a  
12 clearly identified candidate for office, is published after  
13 the end of the candidate qualifying period for the office  
14 sought by the candidate.

15           4. For communications containing a clear reference  
16 indicating that an issue is to be voted on at an election, is  
17 published after the issue is designated a ballot position or  
18 120 days before the date of the election on the issue,  
19 whichever occurs first.

20           (b) The term "electioneering communication" does not  
21 include:

22           1. A statement or depiction by an organization, in  
23 existence prior to the time during which a candidate named or  
24 depicted qualifies or an issue identified is placed on the  
25 ballot for that election, made in that organization's  
26 newsletter, which newsletter is distributed only to members of  
27 that organization.

28           2. An editorial endorsement, news story, commentary,  
29 or editorial by any newspaper, radio, television station, or  
30 other recognized news medium.

31

1           3. A communication that constitutes a public debate or  
2 forum that includes at least two opposing candidates for an  
3 office or one advocate and one opponent of an issue, or that  
4 solely promotes such a debate or forum and is made by or on  
5 behalf of the person sponsoring the debate or forum, provided  
6 that:

7           a. The staging organization is either:

8           (I) A charitable organization that does not make other  
9 electioneering communications and does not otherwise support  
10 or oppose any political candidate or political party; or

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

13           b. The staging organization does not structure the  
14 debate to promote or advance one candidate or issue position  
15 over another.

16           (c) For purposes of this chapter, an expenditure made  
17 for, or in furtherance of, an electioneering communication  
18 shall not be considered a contribution to or on behalf of any  
19 candidate.

20           (d) For purposes of this chapter, an electioneering  
21 communication shall not constitute an independent expenditure  
22 nor be subject to the limitations applicable to independent  
23 expenditures.

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

26           106.04 Committees of continuous existence.--

27           (4)(a) Each committee of continuous existence shall  
28 file an annual report with the Division of Elections during  
29 the month of January. Such annual reports shall contain the  
30 same information and shall be accompanied by the same  
31 materials as original applications filed pursuant to

1 subsection (2). However, the charter or bylaws need not be  
2 filed if the annual report is accompanied by a sworn statement  
3 by the chair that no changes have been made to such charter or  
4 bylaws since the last filing.

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

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

13 (c) All committees of continuous existence shall file  
14 the original and one copy of their reports with the Division  
15 of Elections. In addition, a duplicate copy of each report  
16 shall be filed with the supervisor of elections in the county  
17 in which the committee maintains its books and records, except  
18 that if the filing officer to whom the committee is required  
19 to report is located in the same county as the supervisor no  
20 such duplicate report is required to be filed with the  
21 supervisor. Reports shall be on forms provided by the  
22 division and shall contain the following information:

23 1. The full name, address, and occupation of each  
24 person who has made one or more contributions, including  
25 contributions that represent the payment of membership dues,  
26 to the committee during the reporting period, together with  
27 the amounts and dates of such contributions. For corporations,  
28 the report must provide as clear a description as practicable  
29 of the principal type of business conducted by the  
30 corporation. However, if the contribution is \$100 or less, the  
31 occupation of the contributor or principal type of business



1 need not be listed. However, for any contributions ~~that which~~  
2 represent the payment of dues by members in a fixed amount  
3 aggregating no more than \$250 per calendar year, pursuant to  
4 the schedule on file with the Division of Elections, only the  
5 aggregate amount of such contributions need be listed,  
6 together with the number of members paying such dues and the  
7 amount of the membership dues.

8         2. The name and address of each political committee or  
9 committee of continuous existence from which the reporting  
10 committee received, or the name and address of each political  
11 committee, committee of continuous existence, or political  
12 party to which it made, any transfer of funds, together with  
13 the amounts and dates of all transfers.

14         3. Any other receipt of funds not listed pursuant to  
15 subparagraph 1. or subparagraph 2., including the sources and  
16 amounts of all such funds.

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

21         5. The full name and address of each person to whom  
22 expenditures have been made by or on behalf of the committee  
23 within the reporting period; the amount, date, and purpose of  
24 each such expenditure; and the name and address, and office  
25 sought by, each candidate on whose behalf such expenditure was  
26 made.

27         6. The total sum of expenditures made by the committee  
28 during the reporting period.

29         (d) The treasurer of each committee shall certify as  
30 to the correctness of each report and shall bear the  
31 responsibility for its accuracy and veracity. Any treasurer

1 who willfully certifies to the correctness of a report while  
2 knowing that such report is incorrect, false, or incomplete  
3 commits a misdemeanor of the first degree, punishable as  
4 provided in s. 775.082 or s. 775.083.

5 (5) No committee of continuous existence shall make an  
6 electioneering communication, contribute to any candidate or  
7 political committee an amount in excess of the limits  
8 contained in s. 106.08(1), ~~or participate in any other~~  
9 activity which is prohibited by this chapter. If any violation  
10 occurs, it shall be punishable as provided in this chapter for  
11 the given offense. No funds of a committee of continuous  
12 existence shall be expended on behalf of a candidate, except  
13 by means of a contribution made through the duly appointed  
14 campaign treasurer of a candidate. No such committee shall  
15 make expenditures in support of, or in opposition to, an issue  
16 unless such committee first registers as a political committee  
17 pursuant to this chapter and undertakes all the practices and  
18 procedures required thereof; provided such committee may make  
19 contributions in a total amount not to exceed 25 percent of  
20 its aggregate income, as reflected in the annual report filed  
21 for the previous year, to one or more political committees  
22 registered pursuant to s. 106.03 and formed to support or  
23 oppose issues.

24 Section 4. Section 106.071, Florida Statutes, is  
25 amended to read:

26 106.071 Independent expenditures; electioneering  
27 communications; reports; disclaimers.--

28 (1) Each person who makes an independent expenditure  
29 with respect to any candidate or issue, and each individual  
30 who makes an expenditure for an electioneering communication  
31 which is not otherwise reported pursuant to this chapter,

1 | which expenditure, in the aggregate, is in the amount of \$100  
2 | or more, shall file periodic reports of such expenditures in  
3 | the same manner, at the same time, subject to the same  
4 | penalties, and with the same officer as a political committee  
5 | supporting or opposing such candidate or issue. The report  
6 | shall contain the full name and address of the person making  
7 | the expenditure; the full name and address of each person to  
8 | whom and for whom each such expenditure has been made; the  
9 | amount, date, and purpose of each such expenditure; a  
10 | description of the services or goods obtained by each such  
11 | expenditure; the issue to which the expenditure relates; and  
12 | the name and address of, and office sought by, each candidate  
13 | on whose behalf such expenditure was made.

14 |       (2) Any political advertisement paid for by an  
15 | independent expenditure shall prominently state "Paid  
16 | political advertisement paid for by . . . (Name and address  
17 | of person ~~or committee~~ paying for advertisement) . .  
18 | . independently of any . . . (candidate or committee) . . .  
19 | ~~." and shall contain the name and address of the person~~  
20 | ~~paying for the political advertisement.~~

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

24 |       (4)(2) Any person who fails to include the disclaimer  
25 | prescribed in subsection(2)(1) in any political  
26 | advertisement that ~~which~~ is required to contain such  
27 | disclaimer commits ~~is guilty of~~ a misdemeanor of the first  
28 | degree, punishable as provided in s. 775.082 or s. 775.083.

29 |       (3) ~~No person may make a contribution in excess of~~  
30 | ~~\$1,000 to any other person, to be used by such other person to~~  
31 | ~~make an independent expenditure.~~

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

3           106.143 Political advertisements circulated prior to  
4 election; requirements.--

5           (1)(a) Any political advertisement that is paid for by  
6 a candidate and that is published, displayed, or circulated  
7 prior to, or on the day of, any election must prominently  
8 state: "Political advertisement paid for and approved by . . .  
9 . (name of candidate) . . . , . . . (party affiliation) .  
10 . . . , for . . . (office sought) . . . ."

11           (b) Any other political advertisement ~~and any campaign~~  
12 ~~literature~~ published, displayed, or circulated prior to, or on  
13 the day of, any election must prominently shall:

14           1. ~~(a)~~ Be marked "paid political advertisement" or with  
15 the abbreviation "pd. pol. adv."

16           2. State the name and address of the persons  
17 sponsoring the advertisement.

18           ~~(b) Identify the persons or organizations sponsoring~~  
19 ~~the advertisement.~~

20           3.a.(I)~~(c)~~1.a. State whether the advertisement and the  
21 cost of production is paid for or provided in kind by or at  
22 the expense of the entity publishing, displaying,  
23 broadcasting, or circulating the political advertisement; or

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

27           b.2. This subparagraph does paragraph shall not apply  
28 if the source of the sponsorship is patently clear from the  
29 content or format of the political advertisement ~~or campaign~~  
30 ~~literature.~~

31

ENROLLED

2004 Legislature

CS for SB's 2346 & 516, 1st Engrossed

1 This subsection does not apply to campaign messages used by a  
2 candidate and the candidate's supporters if those messages are  
3 designed to be worn by a person.

4 Section 6. Section 106.1437, Florida Statutes, is  
5 amended to read:

6 106.1437 Miscellaneous advertisements.--Any  
7 advertisement, other than a political advertisement,  
8 independent expenditure, or electioneering communication, on  
9 billboards, bumper stickers, radio, or television, or in a  
10 newspaper, a magazine, or a periodical, intended to influence  
11 public policy or the vote of a public official, shall clearly  
12 designate the sponsor of such advertisement by including a  
13 clearly readable statement of sponsorship. If the  
14 advertisement is broadcast on television, the advertisement  
15 shall also contain a verbal statement of sponsorship. This  
16 section shall not apply to an editorial endorsement.

17 Section 7. Section 106.1439, Florida Statutes, is  
18 created to read:

19 106.1439 Electioneering communications; disclaimers.--

20 (1) Any electioneering communication shall prominently  
21 state, "Paid electioneering communication paid for by . .  
22 . (Name and address of person paying for the communication) .  
23 . . . ."

24 (2) Any person who fails to include the disclaimer  
25 prescribed in this section in any electioneering communication  
26 that is required to contain such disclaimer commits a  
27 misdemeanor of the first degree, punishable as provided in s.  
28 775.082 or s. 775.083.

29 Section 8. Section 106.148, Florida Statutes, is  
30 repealed.

31

1           Section 9. Subsections (7) through (38) are renumbered  
2 as subsections (8) through (39), respectively, and a new  
3 subsection (8) is added to said section to read:

4           97.021 Definitions.--For the purposes of this code,  
5 except where the context clearly indicates otherwise, the  
6 term:

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

11           Section 10. Paragraphs (b) and (c) of subsection (4)  
12 of section 101.015, Florida Statutes, are amended to read:

13           101.015 Standards for voting systems.--

14           (4)

15           (b) Each supervisor of elections shall establish  
16 written procedures to assure accuracy and security in his or  
17 her county, including procedures related to early voting  
18 pursuant to s. 101.657. ~~and~~ Such procedures shall be reviewed  
19 in each odd-numbered year by the Department of State.

20           (c) Each supervisor of elections shall submit any  
21 revisions to the security procedures to the Department of  
22 State at least 45 days before early voting commences pursuant  
23 to s. 101.657 in an ~~the first~~ election in which they are to  
24 take effect.

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

27           101.5612 Testing of tabulating equipment.--

28           (2) On any day not more than 10 days prior to the  
29 commencement of early voting as provided in s. 101.657  
30 ~~election day~~, the supervisor of elections shall have the  
31 automatic tabulating equipment publicly tested to ascertain

1 that the equipment will correctly count the votes cast for all  
2 offices and on all measures. Public notice of the time and  
3 place of the test shall be given at least 48 hours prior  
4 thereto by publication once in one or more newspapers of  
5 general circulation in the county or, if there is no newspaper  
6 of general circulation in the county, by posting the ~~such~~  
7 notice in at least four conspicuous places in the county. The  
8 supervisor or the municipal elections official may, at the  
9 time of qualifying, give written notice of the time and  
10 location of the ~~such~~ public preelection test to each candidate  
11 qualifying with that office and obtain a signed receipt that  
12 the ~~such~~ notice has been given. The Department of State shall  
13 give written notice to each statewide candidate at the time of  
14 qualifying, or immediately at the end of qualifying, that the  
15 voting equipment will be tested and advise each ~~such~~ candidate  
16 to contact the county supervisor of elections as to the time  
17 and location of the public preelection test. The supervisor or  
18 the municipal elections official shall, at least 15 days prior  
19 to the commencement of early voting as provided in s. 101.657  
20 ~~an election~~, send written notice by certified mail to the  
21 county party chair of each political party and to all  
22 candidates for other than statewide office whose names appear  
23 on the ballot in the county and who did not receive written  
24 notification from the supervisor or municipal elections  
25 official at the time of qualifying, stating the time and  
26 location of the public preelection test of the automatic  
27 tabulating equipment. The canvassing board shall convene, and  
28 each member of the canvassing board shall certify to the  
29 accuracy of the test. For the test, the canvassing board may  
30 designate one member to represent it. The test shall be open  
31 to representatives of the political parties, the press, and

1 the public. Each political party may designate one person with  
2 expertise in the computer field who shall be allowed in the  
3 central counting room when all tests are being conducted and  
4 when the official votes are being counted. The ~~Such~~ designee  
5 shall not interfere with the normal operation of the  
6 canvassing board.

7 Section 12. Section 101.5613, Florida Statutes, is  
8 amended to read:

9 101.5613 Examination of equipment during voting.--A  
10 member of the election board or, for purposes of early voting  
11 pursuant to s. 101.657, a representative of the supervisor of  
12 elections, shall occasionally examine the face of the voting  
13 device and the ballot information to determine that the device  
14 and the ballot information have not been damaged or tampered  
15 with.

16 Section 13. Section 101.657, Florida Statutes, is  
17 amended to read:

18 101.657 Early voting ~~absentee ballots in person.--~~  
19 ~~(1) Any qualified and registered elector may pick up~~  
20 ~~and vote an absentee ballot in person at the office of, and~~  
21 ~~under the supervision of, the supervisor of elections. Before~~  
22 ~~receiving the ballot, the elector must present a current and~~  
23 ~~valid picture identification as provided in s. 97.0535(3)(a).~~  
24 ~~If the elector fails to furnish the required identification,~~  
25 ~~or if the supervisor is in doubt as to the identity of the~~  
26 ~~elector, the supervisor must follow the procedure prescribed~~  
27 ~~in s. 101.49. If the elector who fails to furnish the required~~  
28 ~~identification is a first time voter who registered by mail~~  
29 ~~and has not provided the required identification to the~~  
30 ~~supervisor of elections prior to voting, the elector shall be~~  
31 ~~allowed to vote a provisional ballot. The canvassing board~~



1 ~~shall compare the signature on the provisional ballot envelope~~  
2 ~~with the signature on the voter's registration and, if the~~  
3 ~~signatures match, shall count the ballot.~~

4 ~~(1)(a)(2) As an alternative to the provisions of ss.~~  
5 ~~101.64 and 101.65, The supervisor of elections shall~~ may allow  
6 an elector to vote early ~~cast an absentee ballot~~ in the main  
7 or branch office of the supervisor by depositing the voted  
8 ballot in a voting device used by the supervisor to collect or  
9 tabulate ballots. In order for a branch office to be used for  
10 early voting, it shall be a full-service facility of the  
11 supervisor and shall have been designated as such at least 1  
12 year prior to the election. The supervisor may designate any  
13 city hall or public library as early voting sites; however, if  
14 so designated, the sites must be geographically located so as  
15 to provide all voters in the county an equal opportunity to  
16 cast a ballot, insofar as is practicable. The results or  
17 tabulation may not be made before the close of the polls on  
18 election day.

19 (b) Early voting shall begin on the 15th day before an  
20 election and end on the day before an election. For purposes  
21 of a special election held pursuant to s. 100.101, early  
22 voting shall begin on the 8th day before an election and end  
23 on the day before an election. Early voting shall be provided  
24 for at least 8 hours per weekday during the applicable  
25 periods. Early voting shall also be provided for 8 hours in  
26 the aggregate for each weekend during the applicable periods.

27 (2)(a) The elector must provide identification ~~as~~  
28 ~~required in subsection (1)~~ and must complete an Early Voting  
29 ~~In-Office~~ Voter Certificate in substantially the following  
30 form:  
31

1            EARLY VOTING ~~IN OFFICE~~ VOTER CERTIFICATE  
2  
3 I, \_\_\_\_\_, am a qualified elector in this election and  
4 registered voter of \_\_\_\_\_ County, Florida. I do solemnly swear  
5 or affirm that I am the person so listed on the voter  
6 registration rolls of \_\_\_\_\_ County and that I reside at the  
7 listed address. I understand that if I commit or attempt to  
8 commit fraud in connection with voting, vote a fraudulent  
9 ballot, or vote more than once in an election I could be  
10 convicted of a felony of the third degree and both fined up to  
11 \$5,000 and imprisoned for up to 5 years. I understand that my  
12 failure to sign this certificate ~~and have my signature~~  
13 ~~witnessed~~ invalidates my ballot.  
14  
15  
16 ... (Voter's Signature) ...  
17  
18 ... (Address) ...  
19  
20 ... (City/State) ...  
21  
22 ~~... (Name of Witness) ...~~  
23 ~~... (Signature of Witness) ...~~  
24 ~~... (Type of identification provided) ...~~  
25            (b) Any elector may challenge an elector seeking to  
26 vote early ~~east an absentee ballot~~ under the provisions of s.  
27 101.111. Any challenged voter ~~ballot~~ must vote ~~be placed in~~ a  
28 provisional ~~regular absentee~~ ballot ~~envelope~~. The canvassing  
29 board shall review the ballot and decide the validity of the  
30 ballot by majority vote.  
31

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

4           Section 14. Effective July 1, 2004, and operating  
5 retroactively to January 1, 2002, subsection (3) of section  
6 106.021, Florida Statutes, is amended to read:

7           106.021 Campaign treasurers; deputies; primary and  
8 secondary depositories.--

9           (3) ~~Except for independent expenditures,~~ No  
10 contribution or expenditure, including contributions or  
11 expenditures of a candidate or of the candidate's family,  
12 shall be directly or indirectly made or received in  
13 furtherance of the candidacy of any person for nomination or  
14 election to political office in the state or on behalf of any  
15 political committee except through the duly appointed campaign  
16 treasurer of the candidate or political committee, subject to  
17 the following exceptions: ~~however,~~

18           (a) Independent expenditures;

19           (b) Reimbursements to a candidate or any other  
20 individual ~~may be reimbursed~~ for expenses incurred in  
21 connection with the campaign or activities of the political  
22 committee for travel, food and beverage, office supplies, and  
23 ~~mementos expressing gratitude to campaign supporters~~ by a  
24 check drawn upon the campaign account and reported pursuant to  
25 s. 106.07(4). After July 1, 2004, the full name and address of  
26 each person to whom the candidate or other individual made  
27 payment for which reimbursement was made by check drawn upon  
28 the campaign account shall be reported pursuant to s.  
29 106.07(4), together with the purpose of such payment;

30           (c) Expenditures made indirectly through a treasurer  
31 for goods or services, such as communications media placement

1 or procurement services, campaign signs, insurance, or other  
2 expenditures that include multiple integral components as part  
3 of the expenditure and reported pursuant to s.  
4 106.07(4)(a)13.; or

5 (d) In addition, Expenditures ~~may be~~ made directly by  
6 any political committee or political party regulated by  
7 chapter 103 for obtaining time, space, or services in or by  
8 any communications medium for the purpose of jointly endorsing  
9 three or more candidates, and any such expenditure shall not  
10 be considered a contribution or expenditure to or on behalf of  
11 any such candidates for the purposes of this chapter.

12 Section 15. Section 106.023, Florida Statutes, is  
13 amended to read:

14 106.023 Statement of candidate.--

15 (1) Each candidate must file a statement with the  
16 qualifying officer within 10 days after filing the appointment  
17 of campaign treasurer and designation of campaign depository,  
18 stating that the candidate has read and understands the  
19 requirements of this chapter. Such statement shall be provided  
20 by the filing officer and shall be in substantially the  
21 following form:

22 STATEMENT OF CANDIDATE

23  
24 I, \_\_\_\_\_, candidate for the office of \_\_\_\_\_, have  
25 received, read, and understand the requirements of Chapter  
26 106, Florida Statutes.

27  
28 . . . (Signature of candidate) . . . . . (Date) . . .

29  
30 Willful failure to file this form is a violation of ss.  
31 106.19(1)(c) and 106.25(3), F.S.

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

5           Section 16. Paragraph (a) of subsection (8) of section  
6 106.04, Florida Statutes, is amended to read:

7           106.04 Committees of continuous existence.--

8           (8)(a) Any committee of continuous existence failing  
9 to file a report on the designated due date shall be subject  
10 to a fine. The fine shall be \$50 per day for the first 3 days  
11 late and, thereafter, \$500 per day for each late day, not to  
12 exceed 25 percent of the total receipts or expenditures,  
13 whichever is greater, for the period covered by the late  
14 report. The fine shall be assessed by the filing officer, and  
15 the moneys collected shall be deposited in the General Revenue  
16 ~~Elections Commission Trust~~ Fund. No separate fine shall be  
17 assessed for failure to file a copy of any report required by  
18 this section.

19           Section 17. Paragraph (a) of subsection (2), paragraph  
20 (a) of subsection (4), and paragraphs (a), (c), and (d) of  
21 subsection (8) of section 106.07, Florida Statutes, are  
22 amended to read:

23           106.07 Reports; certification and filing.--

24           (2)(a) All reports required of a candidate by this  
25 section shall be filed with the officer before whom the  
26 candidate is required by law to qualify. All candidates who  
27 file with the Department of State shall file the original and  
28 one copy of their reports. In addition, a copy of each report  
29 for candidates for other than statewide office who qualify  
30 with the Department of State shall be filed with the  
31 supervisor of elections in the county where the candidate

1 resides. Reports shall be filed not later than 5 p.m. of the  
2 day designated; however, any report postmarked by the United  
3 States Postal Service no later than midnight of the day  
4 designated shall be deemed to have been filed in a timely  
5 manner. Any report received by the filing officer within 5  
6 days after the designated due date that was delivered by the  
7 United States Postal Service shall be deemed timely filed  
8 unless it has a postmark that indicates that the report was  
9 mailed after the designated due date. A certificate of mailing  
10 obtained from and dated by the United States Postal Service at  
11 the time of mailing, or a receipt from an established courier  
12 company, which bears a date on or before the date on which the  
13 report is due, shall be proof of mailing in a timely manner.  
14 Reports shall contain information of all previously unreported  
15 contributions received and expenditures made as of the  
16 preceding Friday, except that the report filed on the Friday  
17 immediately preceding the election shall contain information  
18 of all previously unreported contributions received and  
19 expenditures made as of the day preceding that designated due  
20 date. All such reports shall be open to public inspection.

21 (4)(a) Each report required by this section shall  
22 contain:

23 1. The full name, address, and occupation, if any of  
24 each person who has made one or more contributions to or for  
25 such committee or candidate within the reporting period,  
26 together with the amount and date of such contributions. For  
27 corporations, the report must provide as clear a description  
28 as practicable of the principal type of business conducted by  
29 the corporation. However, if the contribution is \$100 or less  
30 or is from a relative, as defined in s. 112.312, provided that  
31 the relationship is reported, the occupation of the

1 contributor or the principal type of business need not be  
2 listed.

3           2. The name and address of each political committee  
4 from which the reporting committee or the candidate received,  
5 or to which the reporting committee or candidate made, any  
6 transfer of funds, together with the amounts and dates of all  
7 transfers.

8           3. Each loan for campaign purposes to or from any  
9 person or political committee within the reporting period,  
10 together with the full names, addresses, and occupations, and  
11 principal places of business, if any, of the lender and  
12 endorsers, if any, and the date and amount of such loans.

13           4. A statement of each contribution, rebate, refund,  
14 or other receipt not otherwise listed under subparagraphs 1.  
15 through 3.

16           5. The total sums of all loans, in-kind contributions,  
17 and other receipts by or for such committee or candidate  
18 during the reporting period. The reporting forms shall be  
19 designed to elicit separate totals for in-kind contributions,  
20 loans, and other receipts.

21           6. The full name and address of each person to whom  
22 expenditures have been made by or on behalf of the committee  
23 or candidate within the reporting period; the amount, date,  
24 and purpose of each such expenditure; and the name and address  
25 of, and office sought by, each candidate on whose behalf such  
26 expenditure was made. However, expenditures made from the  
27 petty cash fund provided by s. 106.12 need not be reported  
28 individually.

29           7. The full name and address of each person to whom an  
30 expenditure for personal services, salary, or reimbursement  
31 for authorized expenses as provided in s. 106.021(3) has been

1 made and which is not otherwise reported, including the  
2 amount, date, and purpose of such expenditure. However,  
3 expenditures made from the petty cash fund provided for in s.  
4 106.12 need not be reported individually.

5 8. The total amount withdrawn and the total amount  
6 spent for petty cash purposes pursuant to this chapter during  
7 the reporting period.

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

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

13 11. A copy of each credit card statement which shall  
14 be included in the next report following receipt thereof by  
15 the candidate or political committee. Receipts for each credit  
16 card purchase shall be retained by the treasurer with the  
17 records for the campaign account.

18 12. The amount and nature of any separate  
19 interest-bearing accounts or certificates of deposit and  
20 identification of the financial institution in which such  
21 accounts or certificates of deposit are located.

22 13. The primary purposes of an expenditure made  
23 indirectly through a campaign treasurer pursuant to s.  
24 106.021(3) for goods and services such as communications media  
25 placement or procurement services, campaign signs, insurance,  
26 and other expenditures that include multiple components as  
27 part of the expenditure. The primary purpose of an expenditure  
28 shall be that purpose, including integral and directly related  
29 components, that comprises 80 percent of such expenditure.

30 (8)(a) Any candidate or political committee failing to  
31 file a report on the designated due date shall be subject to a



1 fine as provided in paragraph (b) for each late day, and, in  
2 the case of a candidate, such fine shall be paid only from  
3 personal funds of the candidate. The fine shall be assessed by  
4 the filing officer and the moneys collected shall be  
5 deposited:

6 1. In the General Revenue ~~Elections Commission Trust~~  
7 Fund, in the case of a candidate for state office or a  
8 political committee that registers with the Division of  
9 Elections; or

10 2. In the general revenue fund of the political  
11 subdivision, in the case of a candidate for an office of a  
12 political subdivision or a political committee that registers  
13 with an officer of a political subdivision.

14  
15 No separate fine shall be assessed for failure to file a copy  
16 of any report required by this section.

17 (c) Any candidate or chair of a political committee  
18 may appeal or dispute the fine, based upon, but not limited  
19 to, unusual circumstances surrounding the failure to file on  
20 the designated due date, and may request and shall be entitled  
21 to a hearing before the Florida Elections Commission, which  
22 shall have the authority to waive the fine in whole or in  
23 part. The Florida Elections Commission must consider the  
24 mitigating and aggravating circumstances contained in s.  
25 106.265(1) when determining the amount of a fine, if any, to  
26 be waived. Any such request shall be made within 20 days after  
27 receipt of the notice of payment due. In such case, the  
28 candidate or chair of the political committee shall, within  
29 the 20-day period, notify the filing officer in writing of his  
30 or her intention to bring the matter before the commission.

31

1 (d) The appropriate filing officer shall notify the  
2 Florida Elections Commission of the repeated late filing by a  
3 candidate or political committee, the failure of a candidate  
4 or political committee to file a report after notice, or the  
5 failure to pay the fine imposed. The commission shall  
6 investigate only those alleged late filing violations  
7 specifically identified by the filing officer and as set forth  
8 in the notification. Any other alleged violations must be  
9 separately stated and reported by the division to the  
10 commission under s. 106.25(2).

11 Section 18. Effective January 1, 2005, paragraph (a)  
12 of subsection (2) of section 106.07, Florida Statutes, as  
13 amended by this act, and paragraph (b) of subsection (2),  
14 subsection (3), and paragraph (b) of subsection (8) of said  
15 section, are amended to read:

16 106.07 Reports; certification and filing.--

17 (2)(a) All reports required of a candidate by this  
18 section shall be filed with the officer before whom the  
19 candidate is required by law to qualify. All candidates who  
20 file with the Department of State shall file ~~the original and~~  
21 ~~one copy of~~ their reports pursuant to s. 106.0705. In  
22 addition, a copy of each report for candidates for other than  
23 statewide office who qualify with the Department of State  
24 shall be filed with the supervisor of elections in the county  
25 where the candidate resides. Except as provided in s.  
26 106.0705, reports shall be filed not later than 5 p.m. of the  
27 day designated; however, any report postmarked by the United  
28 States Postal Service no later than midnight of the day  
29 designated shall be deemed to have been filed in a timely  
30 manner. Any report received by the filing officer within 5  
31 days after the designated due date that was delivered by the

1 United States Postal Service shall be deemed timely filed  
2 unless it has a postmark that indicates that the report was  
3 mailed after the designated due date. A certificate of mailing  
4 obtained from and dated by the United States Postal Service at  
5 the time of mailing, or a receipt from an established courier  
6 company, which bears a date on or before the date on which the  
7 report is due, shall be proof of mailing in a timely manner.  
8 Reports shall contain information of all previously unreported  
9 contributions received and expenditures made as of the  
10 preceding Friday, except that the report filed on the Friday  
11 immediately preceding the election shall contain information  
12 of all previously unreported contributions received and  
13 expenditures made as of the day preceding that designated due  
14 date. All such reports shall be open to public inspection.

15 (b)1. Any report which is deemed to be incomplete by  
16 the officer with whom the candidate qualifies shall be  
17 accepted on a conditional basis, and the campaign treasurer  
18 shall be notified by registered mail as to why the report is  
19 incomplete and be given 3 days from receipt of such notice to  
20 file an addendum to the report providing all information  
21 necessary to complete the report in compliance with this  
22 section. Failure to file a complete report after such notice  
23 constitutes a violation of this chapter.

24 2. In lieu of the notice by registered mail as  
25 required in subparagraph 1., the qualifying officer may notify  
26 the campaign treasurer by telephone that the report is  
27 incomplete and request the information necessary to complete  
28 the report. If, however, such information is not received by  
29 the qualifying officer within 3 days after ~~of~~ the telephone  
30 request therefor, notice shall be sent by registered mail as  
31 provided in subparagraph 1.

1           (3) Reports required of a political committee shall be  
2 filed with the agency or officer before whom such committee  
3 registers pursuant to s. 106.03(3) and shall be subject to the  
4 same filing conditions as established for candidates' reports.  
5 ~~Only committees that file with the Department of State shall~~  
6 ~~file the original and one copy of their reports.~~ Incomplete  
7 reports by political committees shall be treated in the manner  
8 provided for incomplete reports by candidates in subsection  
9 (2).

10           (8)

11           (b) Upon determining that a report is late, the filing  
12 officer shall immediately notify the candidate or chair of the  
13 political committee as to the failure to file a report by the  
14 designated due date and that a fine is being assessed for each  
15 late day. The fine shall be \$50 per day for the first 3 days  
16 late and, thereafter, \$500 per day for each late day, not to  
17 exceed 25 percent of the total receipts or expenditures,  
18 whichever is greater, for the period covered by the late  
19 report. However, for the reports immediately preceding each  
20 primary and general election, the fine shall be \$500 per day  
21 for each late day, not to exceed 25 percent of the total  
22 receipts or expenditures, whichever is greater, for the period  
23 covered by the late report. For reports required under s.  
24 106.141(7), the fine is \$50 per day for each late day, not to  
25 exceed 25 percent of the total receipts or expenditures,  
26 whichever is greater, for the period covered by the late  
27 report. Upon receipt of the report, the filing officer shall  
28 determine the amount of the fine which is due and shall notify  
29 the candidate or chair. The filing officer shall determine the  
30 amount of the fine due based upon the earliest of the  
31 following:

1           1. When the report is actually received by such  
2 officer.

3           2. When the report is postmarked.

4           3. When the certificate of mailing is dated.

5           4. When the receipt from an established courier  
6 company is dated.

7           5. When the electronic receipt issued pursuant to s.  
8 106.0705 is dated.

9  
10 Such fine shall be paid to the filing officer within 20 days  
11 after receipt of the notice of payment due, unless appeal is  
12 made to the Florida Elections Commission pursuant to paragraph  
13 (c). In the case of a candidate, such fine shall not be an  
14 allowable campaign expenditure and shall be paid only from  
15 personal funds of the candidate. An officer or member of a  
16 political committee shall not be personally liable for such  
17 fine.

18           Section 19. Effective January 1, 2005, section  
19 106.0705, Florida Statutes, is created to read:

20           106.0705 Electronic filing of campaign treasurer's  
21 reports.--

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

25           (2)(a) Each candidate who is required to file reports  
26 pursuant to s. 106.07 with the division must file such reports  
27 with the division by means of the division's electronic filing  
28 system.

29           (b) Each political committee, committee of continuous  
30 existence, or state executive committee that is required to  
31 file reports with the division under s. 106.04, s. 106.07, or

1 s. 106.29, as applicable, must file such reports with the  
2 division by means of the division's electronic filing system.

3 (c) Each person or organization that is required to  
4 file reports with the division under s. 106.071 must file such  
5 reports with the division by means of the division's  
6 electronic filing system.

7 (3) Reports filed pursuant to this section shall be  
8 completed and filed through the electronic filing system not  
9 later than midnight of the day designated. Reports not filed  
10 by midnight of the day designated are late filed and are  
11 subject to the penalties under s. 106.04(8), s. 106.07(8), or  
12 s. 106.29(3), as applicable.

13 (4) Each report filed pursuant to this section is  
14 considered to be under oath by the candidate and treasurer or  
15 the chair and treasurer, whichever is applicable, and such  
16 persons are subject to the provisions of s. 106.04(4)(d), s.  
17 106.07(5), or s. 106.29(2), as applicable. Persons given a  
18 secure sign-on to the electronic filing system are responsible  
19 for protecting such from disclosure and are responsible for  
20 all filings using such credentials, unless they have notified  
21 the division that their credentials have been compromised.

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

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

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

27 (c) Provide for direct entry of campaign finance  
28 information as well as upload of such information from  
29 campaign finance software certified by the division.

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

1           (6) The division shall adopt rules pursuant to ss.  
2 120.536(1) and 120.54 to administer this section and provide  
3 for the reports required to be filed pursuant to this section.  
4 Such rules shall, at a minimum, provide:

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

7           (b) For the issuance of an electronic receipt to the  
8 person submitting the report indicating and verifying that the  
9 report has been filed.

10           Section 20. Paragraph (a) of subsection (4) and  
11 subsection (6) of section 106.141, Florida Statutes, are  
12 amended to read:

13           106.141 Disposition of surplus funds by candidates.--

14           (4)(a) Except as provided in paragraph (b), any  
15 candidate required to dispose of funds pursuant to this  
16 section shall, at the option of the candidate, dispose of such  
17 funds by any of the following means, or any combination  
18 thereof:

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

21           2. Donate the funds that have not been spent or  
22 obligated to a charitable organization or organizations that  
23 meet the qualifications of s. 501(c)(3) of the Internal  
24 Revenue Code.

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

30           4. Give the funds that have not been spent or  
31 obligated:

1           a. In the case of a candidate for state office, to the  
2 state, to be deposited in either the Election Campaign  
3 Financing Trust Fund or the General Revenue Fund, as  
4 designated by the candidate; or

5           b. In the case of a candidate for an office of a  
6 political subdivision, to such political subdivision, to be  
7 deposited in the general fund thereof.

8           (6) Prior to disposing of funds pursuant to subsection  
9 (4) or transferring funds into an office account pursuant to  
10 subsection (5), any candidate who filed an oath stating that  
11 he or she was unable to pay the election assessment or fee for  
12 verification of petition signatures without imposing an undue  
13 burden on his or her personal resources or on resources  
14 otherwise available to him or her, or who filed both such  
15 oaths, or who qualified by the alternative method and was not  
16 required to pay an election assessment, shall reimburse the  
17 state or local governmental entity, whichever is applicable,  
18 for such waived assessment or fee or both. Such reimbursement  
19 shall be made first for the cost of petition verification and  
20 then, if funds are remaining, for the amount of the election  
21 assessment. If there are insufficient funds in the account to  
22 pay the full amount of either the assessment or the fee or  
23 both, the remaining funds shall be disbursed in the above  
24 manner until no funds remain. All funds disbursed pursuant to  
25 this subsection shall be remitted to the qualifying officer.  
26 Any reimbursement for petition verification costs which are  
27 reimbursable by the state shall be forwarded by the qualifying  
28 officer to the state for deposit in the General Revenue Fund.  
29 All reimbursements for the amount of the election assessment  
30 shall be forwarded by the qualifying officer to the Department  
31



1 of State for deposit in the General Revenue Elections  
2 ~~Commission Trust~~ Fund.

3 Section 21. Subsections (2) and (4) of section 106.25,  
4 Florida Statutes, are amended to read:

5 106.25 Reports of alleged violations to Florida  
6 Elections Commission; disposition of findings.--

7 (2) The commission shall investigate all violations of  
8 this chapter and chapter 104, but only after having received  
9 either a sworn complaint or information reported to it under  
10 this subsection by the Division of Elections. Any person,  
11 other than the division, having information of any violation  
12 of this chapter or chapter 104 shall file a sworn complaint  
13 with the commission. The commission shall investigate only  
14 those alleged violations specifically contained within the  
15 sworn complaint. If any complainant fails to allege all  
16 violations that arise from the facts or allegations alleged in  
17 a complaint, the commission shall be barred from investigating  
18 a subsequent complaint from such complainant that is based  
19 upon such facts or allegations that were raised or could have  
20 been raised in the first complaint. Such sworn complaint shall  
21 state whether a complaint of the same violation has been made  
22 to any state attorney. Within 5 days after receipt of a sworn  
23 complaint, the commission shall transmit a copy of the  
24 complaint to the alleged violator. All sworn complaints  
25 alleging violations of the Florida Election Code over which  
26 the commission has jurisdiction shall be filed with the  
27 commission within 2 years after ~~of~~ the alleged violations. The  
28 period of limitations is tolled on the day a sworn complaint  
29 is filed with the commission.

30 (4) The commission shall undertake a preliminary  
31 investigation to determine if the facts alleged in a sworn

1 | complaint or a matter initiated by the division constitute  
2 | probable cause to believe that a violation has occurred. The  
3 | respondent, the complainant, and their respective counsels  
4 | shall be permitted to attend the hearing at which the probable  
5 | cause determination is made. Notice of the hearing shall be  
6 | sent to the respondent and the complainant at least 14 days  
7 | prior to the date of the hearing. The respondent and his or  
8 | her counsel shall be permitted to make a brief oral statement  
9 | in the nature of oral argument to the commission before the  
10 | probable cause determination. The commission's determination  
11 | shall be based upon the investigator's report, the complaint,  
12 | and staff recommendations, as well as any written statements  
13 | submitted by the respondent and any oral statements made at  
14 | the hearing. No testimony or other evidence shall be accepted  
15 | at the hearing. Upon completion of the preliminary  
16 | investigation, the commission shall, by written report, find  
17 | probable cause or no probable cause to believe that this  
18 | chapter or chapter 104 has been violated.

19 |         (a) If no probable cause is found, the commission  
20 | shall dismiss the case and the case shall become a matter of  
21 | public record, except as otherwise provided in this section,  
22 | together with a written statement of the findings of the  
23 | preliminary investigation and a summary of the facts which the  
24 | commission shall send to the complainant and the alleged  
25 | violator.

26 |         (b) If probable cause is found, the commission shall  
27 | so notify the complainant and the alleged violator in writing.  
28 | All documents made or received in the disposition of the  
29 | complaint shall become public records upon a finding by the  
30 | commission.

31 |

1 In a case where probable cause is found, the commission shall  
2 make a preliminary determination to consider the matter or to  
3 refer the matter to the state attorney for the judicial  
4 circuit in which the alleged violation occurred.

5 Section 22. Subsection (5) is added to section  
6 106.265, Florida Statutes, to read:

7 106.265 Civil penalties.--

8 (5) In any case in which the commission determines  
9 that a person has filed a complaint against another person  
10 with a malicious intent to injure the reputation of the person  
11 complained against by filing the complaint with knowledge that  
12 the complaint contains one or more false allegations or with  
13 reckless disregard for whether the complaint contains false  
14 allegations of fact material to a violation of this chapter or  
15 chapter 104, the complainant shall be liable for costs and  
16 reasonable attorney's fees incurred in the defense of the  
17 person complained against, including the costs and reasonable  
18 attorney's fees incurred in proving entitlement to and the  
19 amount of costs and fees. If the complainant fails to pay such  
20 costs and fees voluntarily within 30 days following such  
21 finding by the commission, the commission shall forward such  
22 information to the Department of Legal Affairs, which shall  
23 bring a civil action in a court of competent jurisdiction to  
24 recover the amount of such costs and fees awarded by the  
25 commission.

26 Section 23. Paragraph (a) of subsection (3) of section  
27 106.29, Florida Statutes, is amended to read:

28 106.29 Reports by political parties; restrictions on  
29 contributions and expenditures; penalties.--

30 (3)(a) Any state or county executive committee failing  
31 to file a report on the designated due date shall be subject

1 to a fine as provided in paragraph (b) for each late day. The  
2 fine shall be assessed by the filing officer, and the moneys  
3 collected shall be deposited in the General Revenue Elections  
4 ~~Commission Trust~~ Fund.

5 Section 24. Effective January 1, 2005, paragraph (b)  
6 of subsection (3) of section 106.29, Florida Statutes, is  
7 amended to read:

8 106.29 Reports by political parties; restrictions on  
9 contributions and expenditures; penalties.--

10 (3)

11 (b) Upon determining that a report is late, the filing  
12 officer shall immediately notify the chair of the executive  
13 committee as to the failure to file a report by the designated  
14 due date and that a fine is being assessed for each late day.  
15 The fine shall be \$1,000 for a state executive committee, and  
16 \$50 for a county executive committee, per day for each late  
17 day, not to exceed 25 percent of the total receipts or  
18 expenditures, whichever is greater, for the period covered by  
19 the late report. However, if an executive committee fails to  
20 file a report on the Friday immediately preceding the general  
21 election, the fine shall be \$10,000 per day for each day a  
22 state executive committee is late and \$500 per day for each  
23 day a county executive committee is late. Upon receipt of the  
24 report, the filing officer shall determine the amount of the  
25 fine which is due and shall notify the chair. The filing  
26 officer shall determine the amount of the fine due based upon  
27 the earliest of the following:

- 28 1. When the report is actually received by such  
29 officer.
- 30 2. When the report is postmarked.
- 31 3. When the certificate of mailing is dated.

1           4. When the receipt from an established courier  
2 company is dated.

3           5. When the electronic receipt issued pursuant to s.  
4 106.0705 is dated.

5  
6 Such fine shall be paid to the filing officer within 20 days  
7 after receipt of the notice of payment due, unless appeal is  
8 made to the Florida Elections Commission pursuant to paragraph  
9 (c). An officer or member of an executive committee shall not  
10 be personally liable for such fine.

11           Section 25. If any provision of this act or its  
12 application to any person or circumstance is held invalid, the  
13 invalidity does not affect other provisions or applications of  
14 the act which can be given effect without the invalid  
15 provision or application, and to this end the provisions of  
16 this act are severable.

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

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