

Bill No. CS for CS for SB 3004

Amendment No. ____ Barcode 652510

CHAMBER ACTION

Senate

House

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Senator Cowin moved the following amendment:

Senate Amendment (with title amendment)

On page 67, line 1 through page 77, line 26, delete

and insert:

Section 46. (1) Subsection (3) of section 106.021, Florida Statutes, is amended to read:

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

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

(a) Independent expenditures;

(b) Reimbursements to a candidate or any other

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

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

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

24 (2) The amendment to s. 106.021(3)(b), Florida
25 Statutes, made by this section shall operate retroactively to
26 January 1, 2002.

27 Section 47. 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:

7 STATEMENT OF CANDIDATE

8
9 I,, candidate for the office of, have
10 received, read, and understand the requirements of Chapter
11 106, Florida Statutes.

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

14
15 Willful failure to file this form is a violation of ss.
16 106.19(1)(c) and 106.25(3), F.S.

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

21 Section 48. Paragraph (a) of subsection (8) of section
22 106.04, Florida Statutes, are amended to read:

23 106.04 Committees of continuous existence.--

24 (8)(a) Any committee of continuous existence failing
25 to file a report on the designated due date shall be subject
26 to a fine. The fine shall be \$50 per day for the first 3 days
27 late, and thereafter, \$500 per day for each late day, not to
28 exceed 25 percent of the total receipts or expenditures,
29 whichever is greater, for the period covered by the late
30 report. The fine shall be assessed by the filing officer, and
31 the moneys collected shall be deposited in the General Revenue

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1 ~~Elections Commission Trust~~ Fund. No separate fine shall be
2 assessed for failure to file a copy of any report required by
3 this section.

4 Section 49. Paragraph (a) of subsection (2), paragraph
5 (a) of subsection (4), and paragraphs (a), (c), and (d) of
6 subsection (8) of section 106.07, Florida Statutes, are
7 amended to read:

8 106.07 Reports; certification and filing.--

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

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

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

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

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

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

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

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

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

14 7. The full name and address of each person to whom an
15 expenditure for personal services, salary, or reimbursement
16 for authorized expenses as provided in s. 106.021(3) has been
17 made and which is not otherwise reported, including the
18 amount, date, and purpose of such expenditure. However,
19 expenditures made from the petty cash fund provided for in s.
20 106.12 need not be reported individually.

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

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

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

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

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1 card purchase shall be retained by the treasurer with the
 2 records for the campaign account.

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

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

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

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

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

30
 31 No separate fine shall be assessed for failure to file a copy

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1 of any report required by this section.

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

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

26 Section 50. Subsection (6) of section 106.141, Florida
27 Statutes, is amended to read:

28 106.141 Disposition of surplus funds by candidates.--

29 (6) Prior to disposing of funds pursuant to subsection
30 (4) or transferring funds into an office account pursuant to
31 subsection (5), any candidate who filed an oath stating that

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1 he or she was unable to pay the election assessment or fee for
2 verification of petition signatures without imposing an undue
3 burden on his or her personal resources or on resources
4 otherwise available to him or her, or who filed both such
5 oaths, or who qualified by the alternative method and was not
6 required to pay an election assessment, shall reimburse the
7 state or local governmental entity, whichever is applicable,
8 for such waived assessment or fee or both. Such reimbursement
9 shall be made first for the cost of petition verification and
10 then, if funds are remaining, for the amount of the election
11 assessment. If there are insufficient funds in the account to
12 pay the full amount of either the assessment or the fee or
13 both, the remaining funds shall be disbursed in the above
14 manner until no funds remain. All funds disbursed pursuant to
15 this subsection shall be remitted to the qualifying officer.
16 Any reimbursement for petition verification costs which are
17 reimbursable by the state shall be forwarded by the qualifying
18 officer to the state for deposit in the General Revenue Fund.
19 All reimbursements for the amount of the election assessment
20 shall be forwarded by the qualifying officer to the Department
21 of State for deposit in the General Revenue Elections
22 ~~Commission Trust~~ Fund.

23 Section 51. Subsections (2) and (4) of section 106.25,
24 Florida Statutes, are amended to read:

25 106.25 Reports of alleged violations to Florida
26 Elections Commission; disposition of findings.--

27 (2) The commission shall investigate all violations of
28 this chapter and chapter 104, but only after having received
29 either a sworn complaint or information reported to it under
30 this subsection by the Division of Elections. Any person,
31 other than the division, having information of any violation

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1 of this chapter or chapter 104 shall file a sworn complaint
2 with the commission. The commission shall investigate only
3 those alleged violations specifically contained within the
4 sworn complaint. If any complainant fails to allege all
5 violations that arise from the facts or allegations alleged in
6 a complaint, the commission shall be barred from investigating
7 a subsequent complaint from such complainant that is based
8 upon such facts or allegations that were raised or could have
9 been raised in the first complaint. Such sworn complaint shall
10 state whether a complaint of the same violation has been made
11 to any state attorney. Within 5 days after receipt of a sworn
12 complaint, the commission shall transmit a copy of the
13 complaint to the alleged violator. All sworn complaints
14 alleging violations of the Florida Election Code over which
15 the commission has jurisdiction shall be filed with the
16 commission within 2 years after ~~of~~ the alleged violations. The
17 period of limitations is tolled on the day a sworn complaint
18 is filed with the commission.

19 (4) The commission shall undertake a preliminary
20 investigation to determine if the facts alleged in a sworn
21 complaint or a matter initiated by the division constitute
22 probable cause to believe that a violation has occurred. The
23 respondent, the complainant, and their respective counsels
24 shall be permitted to attend the hearing at which the probable
25 cause determination is made. Notice of the hearing shall be
26 sent to the respondent and the complainant at least 14 days
27 prior to the date of the hearing. The respondent and his or
28 her counsel shall be permitted to make a brief oral statement
29 in the nature of oral argument to the commission before the
30 probable cause determination. The commission's determination
31 shall be based upon the investigator's report, the complaint,

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1 and staff recommendations, as well as any written statements
2 submitted by the respondent and any oral statements made at
3 the hearing. No testimony or other evidence shall be accepted
4 at the hearing. Upon completion of the preliminary
5 investigation, the commission shall, by written report, find
6 probable cause or no probable cause to believe that this
7 chapter or chapter 104 has been violated.

8 (a) If no probable cause is found, the commission
9 shall dismiss the case and the case shall become a matter of
10 public record, except as otherwise provided in this section,
11 together with a written statement of the findings of the
12 preliminary investigation and a summary of the facts which the
13 commission shall send to the complainant and the alleged
14 violator.

15 (b) If probable cause is found, the commission shall
16 so notify the complainant and the alleged violator in writing.
17 All documents made or received in the disposition of the
18 complaint shall become public records upon a finding by the
19 commission.

20
21 In a case where probable cause is found, the commission shall
22 make a preliminary determination to consider the matter or to
23 refer the matter to the state attorney for the judicial
24 circuit in which the alleged violation occurred.

25 Section 52. Paragraph (a) of subsection (3) of section
26 106.29, Florida Statutes, is amended to read:

27 106.29 Reports by political parties; restrictions on
28 contributions and expenditures; penalties.--

29 (3)(a) Any state or county executive committee failing
30 to file a report on the designated due date shall be subject
31 to a fine as provided in paragraph (b) for each late day. The

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1 fine shall be assessed by the filing officer, and the moneys
2 collected shall be deposited in the General Revenue Elections
3 ~~Commission Trust~~ Fund.

4 Section 53. To provide for uniformity of the
5 proceedings, sections 46, 47, 48, 49, and 51 shall apply to
6 all cases before the Florida Elections Commission pending on
7 or filed on or after the effective date of this act.

8 Section 54. If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 invalidity does not affect other provisions or applications of
11 the act which can be given effect without the invalid
12 provision or application, and to this end the provisions of
13 this act are severable.

14 Section 55. Except as otherwise expressly provided in
15 this act, this act shall take effect July 1, 2004.

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

19 And the title is amended as follows:

20 On page 5, lines 9-31, and on page 6, lines 1-18, delete
21 those lines

22

23 and insert:

24 voter education activities; amending s.
25 106.023, F.S.; providing that the execution and
26 filing of the statement of candidate does not
27 create a presumption of a willful violation of
28 ch. 106 or ch. 104, F.S.; amending s. 106.04,
29 F.S.; reducing the fine for late filing of
30 campaign finance reports by committees of
31 continuous existence; providing for deposit of

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1 fine proceeds into the General Revenue Fund;
2 amending s. 106.07, F.S.; requiring the
3 reporting of certain expenditures made
4 indirectly through a campaign treasurer for
5 certain goods and services; directing the
6 deposit of certain late-filing fines for
7 campaign finance reports to the General Revenue
8 Fund; modifying procedures and grounds for
9 contesting certain late-filing fines; amending
10 s. 106.141, F.S.; providing for deposit of
11 reimbursed election assessments into the
12 General Revenue Fund; amending s. 106.25, F.S.;
13 limiting the commission's investigatory
14 authority; precluding the filing of certain
15 complaints; authorizing respondents,
16 complainants, and their counsel to attend
17 hearings at which probable cause is determined;
18 requiring prior notice; permitting a brief oral
19 statement; specifying basis for determining
20 probable cause; amending s. 106.29, F.S.;
21 providing for deposit of late-filing fees for
22 political party campaign finance reports into
23 the General Revenue Fund; providing
24 applicability of certain sections of the bill
25 to pending and future cases before the Florida
26 Elections Commission; providing for a
27 severability clause; providing effective
28 dates.

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