

By Senator Thrasher

8-01077C-10

20102536\_\_

1                   A bill to be entitled  
2       An act relating to elections; reenacting s.  
3       106.011(1)(b), (3), (4), (18), and (19), F.S.,  
4       relating to political committees, contributions,  
5       expenditures, electioneering communications, and  
6       electioneering communications organizations;  
7       reenacting s. 106.022(1), F.S., relating to the  
8       appointment of a registered agent; reenacting s.  
9       106.03(1)(b), F.S., relating to the registration of  
10      political committees; reenacting s. 106.04(5), F.S.,  
11      relating to committees of continuous existence;  
12      reenacting s. 106.0703, F.S., relating to  
13      electioneering communications organizations;  
14      reenacting s. 106.0705(2)(b), F.S., relating to  
15      electronic filing of campaign treasurer's reports;  
16      reenacting s. 106.071(1), F.S., relating to  
17      independent expenditures for electioneering  
18      communications; reenacting s. 106.08(4)(b), (5)(d),  
19      and (7), F.S., relating to limitations on  
20      contributions; reenacting s. 106.1437, F.S., relating  
21      to miscellaneous advertisements; reenacting s.  
22      106.1439, F.S., relating to disclaimers for  
23      electioneering communications; reenacting s.  
24      106.147(1), F.S., relating to telephone solicitation;  
25      reenacting s. 106.17, F.S., relating to polls and  
26      surveys relating to candidacies; providing an  
27      effective date.

28  
29   Be It Enacted by the Legislature of the State of Florida:

8-01077C-10

20102536

30  
31 Section 1. Paragraph (b) of subsection (1) and subsections  
32 (3), (4), (18), and (19) of section 106.011, Florida Statutes,  
33 are reenacted to read:

34 106.011 Definitions.—As used in this chapter, the following  
35 terms have the following meanings unless the context clearly  
36 indicates otherwise:

37 (1)

38 (b) Notwithstanding paragraph (a), the following entities  
39 are not considered political committees for purposes of this  
40 chapter:

41 1. Organizations which are certified by the Department of  
42 State as committees of continuous existence pursuant to s.  
43 106.04, national political parties, and the state and county  
44 executive committees of political parties regulated by chapter  
45 103.

46 2. Corporations regulated by chapter 607 or chapter 617 or  
47 other business entities formed for purposes other than to  
48 support or oppose issues or candidates, if their political  
49 activities are limited to contributions to candidates, political  
50 parties, or political committees or expenditures in support of  
51 or opposition to an issue from corporate or business funds and  
52 if no contributions are received by such corporations or  
53 business entities.

54 3. Electioneering communications organizations as defined  
55 in subsection (19); however, such organizations shall be  
56 required to register with and report expenditures and  
57 contributions, including contributions received from committees  
58 of continuous existence, to the Division of Elections in the

8-01077C-10

20102536\_\_

59 same manner, at the same time, and subject to the same penalties  
60 as a political committee supporting or opposing an issue or a  
61 legislative candidate, except as otherwise specifically provided  
62 in this chapter.

63 (3) "Contribution" means:

64 (a) A gift, subscription, conveyance, deposit, loan,  
65 payment, or distribution of money or anything of value,  
66 including contributions in kind having an attributable monetary  
67 value in any form, made for the purpose of influencing the  
68 results of an election or making an electioneering  
69 communication.

70 (b) A transfer of funds between political committees,  
71 between committees of continuous existence, between  
72 electioneering communications organizations, or between any  
73 combination of these groups.

74 (c) The payment, by any person other than a candidate or  
75 political committee, of compensation for the personal services  
76 of another person which are rendered to a candidate or political  
77 committee without charge to the candidate or committee for such  
78 services.

79 (d) The transfer of funds by a campaign treasurer or deputy  
80 campaign treasurer between a primary depository and a separate  
81 interest-bearing account or certificate of deposit, and the term  
82 includes any interest earned on such account or certificate.

83

84 Notwithstanding the foregoing meanings of "contribution," the  
85 word shall not be construed to include services, including, but  
86 not limited to, legal and accounting services, provided without  
87 compensation by individuals volunteering a portion or all of

8-01077C-10

20102536\_\_

88 their time on behalf of a candidate or political committee. This  
89 definition shall not be construed to include editorial  
90 endorsements.

91 (4) (a) "Expenditure" means a purchase, payment,  
92 distribution, loan, advance, transfer of funds by a campaign  
93 treasurer or deputy campaign treasurer between a primary  
94 depository and a separate interest-bearing account or  
95 certificate of deposit, or gift of money or anything of value  
96 made for the purpose of influencing the results of an election  
97 or making an electioneering communication. However,  
98 "expenditure" does not include a purchase, payment,  
99 distribution, loan, advance, or gift of money or anything of  
100 value made for the purpose of influencing the results of an  
101 election when made by an organization, in existence prior to the  
102 time during which a candidate qualifies or an issue is placed on  
103 the ballot for that election, for the purpose of printing or  
104 distributing such organization's newsletter, containing a  
105 statement by such organization in support of or opposition to a  
106 candidate or issue, which newsletter is distributed only to  
107 members of such organization.

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

- 111 1. A person enters into a contract for applicable goods or  
112 services;
- 113 2. A person makes payment, in whole or in part, for the  
114 production or public dissemination of applicable goods or  
115 services; or
- 116 3. The electioneering communication is publicly

8-01077C-10

20102536\_\_

117 disseminated.

118 (18) (a) "Electioneering communication" means a paid  
119 expression in any communications media prescribed in subsection  
120 (13) by means other than the spoken word in direct conversation  
121 that:

122 1. Refers to or depicts a clearly identified candidate for  
123 office or contains a clear reference indicating that an issue is  
124 to be voted on at an election, without expressly advocating the  
125 election or defeat of a candidate or the passage or defeat of an  
126 issue.

127 2. For communications referring to or depicting a clearly  
128 identified candidate for office, is targeted to the relevant  
129 electorate. A communication is considered targeted if 1,000 or  
130 more persons in the geographic area the candidate would  
131 represent if elected will receive the communication.

132 3. For communications containing a clear reference  
133 indicating that an issue is to be voted on at an election, is  
134 published after the issue is designated a ballot position or 120  
135 days before the date of the election on the issue, whichever  
136 occurs first.

137 (b) The term "electioneering communication" does not  
138 include:

139 1. A statement or depiction by an organization, in  
140 existence prior to the time during which a candidate named or  
141 depicted qualifies or an issue identified is placed on the  
142 ballot for that election, made in that organization's  
143 newsletter, which newsletter is distributed only to members of  
144 that organization.

145 2. An editorial endorsement, news story, commentary, or

8-01077C-10

20102536

146 editorial by any newspaper, radio, television station, or other  
147 recognized news medium.

148 3. A communication that constitutes a public debate or  
149 forum that includes at least two opposing candidates for an  
150 office or one advocate and one opponent of an issue, or that  
151 solely promotes such a debate or forum and is made by or on  
152 behalf of the person sponsoring the debate or forum, provided  
153 that:

154 a. The staging organization is either:

155 (I) A charitable organization that does not make other  
156 electioneering communications and does not otherwise support or  
157 oppose any political candidate or political party; or

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

160 b. The staging organization does not structure the debate  
161 to promote or advance one candidate or issue position over  
162 another.

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

166 (d) For purposes of this chapter, an electioneering  
167 communication shall not constitute an independent expenditure  
168 nor be subject to the limitations applicable to independent  
169 expenditures.

170 (19) "Electioneering communications organization" means any  
171 group, other than a political party, political committee, or  
172 committee of continuous existence, whose activities are limited  
173 to making expenditures for electioneering communications or  
174 accepting contributions for the purpose of making electioneering

8-01077C-10

20102536

175 communications.

176 Section 2. Subsection (1) of section 106.022, Florida  
177 Statutes, is reenacted to read:

178 106.022 Appointment of a registered agent; duties.—

179 (1) Each political committee, committee of continuous  
180 existence, or electioneering communications organization shall  
181 have and continuously maintain in this state a registered office  
182 and a registered agent and must file with the division a  
183 statement of appointment for the registered office and  
184 registered agent. The statement of appointment must:

185 (a) Provide the name of the registered agent and the street  
186 address and phone number for the registered office;

187 (b) Identify the entity for whom the registered agent  
188 serves;

189 (c) Designate the address the registered agent wishes to  
190 use to receive mail;

191 (d) Include the entity's undertaking to inform the division  
192 of any change in such designated address;

193 (e) Provide for the registered agent's acceptance of the  
194 appointment, which must confirm that the registered agent is  
195 familiar with and accepts the obligations of the position as set  
196 forth in this section; and

197 (f) Contain the signature of the registered agent and the  
198 entity engaging the registered agent.

199 Section 3. Paragraph (b) of subsection (1) of section  
200 106.03, Florida Statutes, is reenacted to read:

201 106.03 Registration of political committees.—

202 (1)

203 (b) Each electioneering communications organization that

8-01077C-10

20102536

204 anticipates receiving contributions or making expenditures shall  
205 file a statement of organization as provided in subsection (3)  
206 by expedited delivery within 24 hours after its organization or,  
207 if later, within 24 hours after the date on which it has  
208 information that causes the organization to anticipate that it  
209 will receive contributions or make expenditures for an  
210 electioneering communication.

211 Section 4. Subsection (5) of section 106.04, Florida  
212 Statutes, is reenacted to read:

213 106.04 Committees of continuous existence.—

214 (5) No committee of continuous existence shall make an  
215 electioneering communication, contribute to any candidate or  
216 political committee an amount in excess of the limits contained  
217 in s. 106.08(1), or participate in any activity which is  
218 prohibited by this chapter. If any violation occurs, it shall be  
219 punishable as provided in this chapter for the given offense. No  
220 funds of a committee of continuous existence shall be expended  
221 on behalf of a candidate, except by means of a contribution made  
222 through the duly appointed campaign treasurer of a candidate. No  
223 such committee shall make expenditures in support of, or in  
224 opposition to, an issue unless such committee first registers as  
225 a political committee pursuant to this chapter and undertakes  
226 all the practices and procedures required thereof; provided such  
227 committee may make contributions in a total amount not to exceed  
228 25 percent of its aggregate income, as reflected in the annual  
229 report filed for the previous year, to one or more political  
230 committees registered pursuant to s. 106.03 and formed to  
231 support or oppose issues.

232 Section 5. Section 106.0703, Florida Statutes, is reenacted



8-01077C-10

20102536

233 to read:

234 106.0703 Electioneering communications organizations;  
235 additional reporting requirements.—In addition to the reporting  
236 requirements in s. 106.07, an electioneering communications  
237 organization shall, within 2 days after receiving its initial  
238 password or secure sign-on from the Department of State allowing  
239 confidential access to the department's electronic campaign  
240 finance filing system, electronically file the periodic campaign  
241 finance reports that would have been required pursuant to s.  
242 106.07 for reportable activities that occurred since the date of  
243 the last general election.

244 Section 6. Paragraph (b) of subsection (2) of section  
245 106.0705, Florida Statutes, is reenacted to read:

246 106.0705 Electronic filing of campaign treasurer's  
247 reports.—

248 (2)

249 (b) Each political committee, committee of continuous  
250 existence, electioneering communications organization, or state  
251 executive committee that is required to file reports with the  
252 division under s. 106.04, s. 106.07, s. 106.0703, or s. 106.29,  
253 as applicable, must file such reports with the division by means  
254 of the division's electronic filing system.

255 Section 7. Subsection (1) of section 106.071, Florida  
256 Statutes, is reenacted to read:

257 106.071 Independent expenditures; electioneering  
258 communications; reports; disclaimers.—

259 (1) Each person who makes an independent expenditure with  
260 respect to any candidate or issue, and each individual who makes  
261 an expenditure for an electioneering communication which is not

8-01077C-10

20102536

262 otherwise reported pursuant to this chapter, which expenditure,  
263 in the aggregate, is in the amount of \$100 or more, shall file  
264 periodic reports of such expenditures in the same manner, at the  
265 same time, subject to the same penalties, and with the same  
266 officer as a political committee supporting or opposing such  
267 candidate or issue. The report shall contain the full name and  
268 address of the person making the expenditure; the full name and  
269 address of each person to whom and for whom each such  
270 expenditure has been made; the amount, date, and purpose of each  
271 such expenditure; a description of the services or goods  
272 obtained by each such expenditure; the issue to which the  
273 expenditure relates; and the name and address of, and office  
274 sought by, each candidate on whose behalf such expenditure was  
275 made.

276 Section 8. Paragraph (b) of subsection (4), paragraph (d)  
277 of subsection (5), and subsection (7) of section 106.08, Florida  
278 Statutes, are reenacted to read:

279 106.08 Contributions; limitations on.—

280 (4)

281 (b) Any contribution received by an electioneering  
282 communications organization on the day of an election or less  
283 than 5 days prior to the day of that election may not be  
284 obligated or expended by the organization until after the date  
285 of the election and may not be expended to pay for any  
286 obligation arising prior to the election.

287 (5)

288 (d) An electioneering communications organization may not  
289 accept a contribution from an organization exempt from taxation  
290 under s. 527 or s. 501(c)(4) of the Internal Revenue Code, other

8-01077C-10

20102536

291 than a political committee, committee of continuous existence,  
292 or political party, unless the contributing organization has  
293 registered as if the organization were an electioneering  
294 communications organization pursuant to s. 106.03 and has filed  
295 all campaign finance reports required of electioneering  
296 communications organizations pursuant to ss. 106.07 and  
297 106.0703.

298 (7) (a) Any person who knowingly and willfully makes or  
299 accepts no more than one contribution in violation of subsection  
300 (1) or subsection (5), or any person who knowingly and willfully  
301 fails or refuses to return any contribution as required in  
302 subsection (3), commits a misdemeanor of the first degree,  
303 punishable as provided in s. 775.082 or s. 775.083. If any  
304 corporation, partnership, or other business entity or any  
305 political party, political committee, committee of continuous  
306 existence, or electioneering communications organization is  
307 convicted of knowingly and willfully violating any provision  
308 punishable under this paragraph, it shall be fined not less than  
309 \$1,000 and not more than \$10,000. If it is a domestic entity, it  
310 may be ordered dissolved by a court of competent jurisdiction;  
311 if it is a foreign or nonresident business entity, its right to  
312 do business in this state may be forfeited. Any officer,  
313 partner, agent, attorney, or other representative of a  
314 corporation, partnership, or other business entity, or of a  
315 political party, political committee, committee of continuous  
316 existence, electioneering communications organization, or  
317 organization exempt from taxation under s. 527 or s. 501(c)(4)  
318 of the Internal Revenue Code, who aids, abets, advises, or  
319 participates in a violation of any provision punishable under

8-01077C-10

20102536\_\_

320 this paragraph commits a misdemeanor of the first degree,  
321 punishable as provided in s. 775.082 or s. 775.083.

322 (b) Any person who knowingly and willfully makes or accepts  
323 two or more contributions in violation of subsection (1) or  
324 subsection (5) commits a felony of the third degree, punishable  
325 as provided in s. 775.082, s. 775.083, or s. 775.084. If any  
326 corporation, partnership, or other business entity or any  
327 political party, political committee, committee of continuous  
328 existence, or electioneering communications organization is  
329 convicted of knowingly and willfully violating any provision  
330 punishable under this paragraph, it shall be fined not less than  
331 \$10,000 and not more than \$50,000. If it is a domestic entity,  
332 it may be ordered dissolved by a court of competent  
333 jurisdiction; if it is a foreign or nonresident business entity,  
334 its right to do business in this state may be forfeited. Any  
335 officer, partner, agent, attorney, or other representative of a  
336 corporation, partnership, or other business entity, or of a  
337 political committee, committee of continuous existence,  
338 political party, or electioneering communications organization,  
339 or organization exempt from taxation under s. 527 or s.  
340 501(c)(4) of the Internal Revenue Code, who aids, abets,  
341 advises, or participates in a violation of any provision  
342 punishable under this paragraph commits a felony of the third  
343 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
344 775.084.

345 Section 9. Section 106.1437, Florida Statutes, is reenacted  
346 to read:

347 106.1437 Miscellaneous advertisements.—Any advertisement,  
348 other than a political advertisement, independent expenditure,

8-01077C-10

20102536\_\_

349 or electioneering communication, on billboards, bumper stickers,  
350 radio, or television, or in a newspaper, a magazine, or a  
351 periodical, intended to influence public policy or the vote of a  
352 public official, shall clearly designate the sponsor of such  
353 advertisement by including a clearly readable statement of  
354 sponsorship. If the advertisement is broadcast on television,  
355 the advertisement shall also contain a verbal statement of  
356 sponsorship. This section shall not apply to an editorial  
357 endorsement.

358 Section 10. Section 106.1439, Florida Statutes, is  
359 reenacted to read:

360 106.1439 Electioneering communications; disclaimers.—

361 (1) Any electioneering communication shall prominently  
362 state: "Paid electioneering communication paid for by ... (Name  
363 and address of person paying for the communication)...."

364 (2) Any person who fails to include the disclaimer  
365 prescribed in this section in any electioneering communication  
366 that is required to contain such disclaimer commits a  
367 misdemeanor of the first degree, punishable as provided in s.  
368 775.082 or s. 775.083.

369 Section 11. Subsection (1) of section 106.147, Florida  
370 Statutes, is reenacted to read:

371 106.147 Telephone solicitation; disclosure requirements;  
372 prohibitions; exemptions; penalties.—

373 (1) (a) Any electioneering communication telephone call or  
374 any telephone call supporting or opposing a candidate, elected  
375 public official, or ballot proposal must identify the persons or  
376 organizations sponsoring the call by stating either: "paid for  
377 by ...." (insert name of persons or organizations sponsoring the

8-01077C-10

20102536\_\_

378 call) or "paid for on behalf of ...." (insert name of persons or  
379 organizations authorizing call). This paragraph does not apply  
380 to any telephone call in which both the individual making the  
381 call is not being paid and the individuals participating in the  
382 call know each other prior to the call.

383 (b) Any telephone call conducted for the purpose of polling  
384 respondents concerning a candidate or elected public official  
385 which is a part of a series of like telephone calls that  
386 consists of fewer than 1,000 completed calls and averages more  
387 than 2 minutes in duration is presumed to be a political poll  
388 and not subject to the provisions of paragraph (a).

389 (c) No telephone call shall state or imply that the caller  
390 represents any person or organization unless the person or  
391 organization so represented has given specific approval in  
392 writing to make such representation.

393 (d) No telephone call shall state or imply that the caller  
394 represents a nonexistent person or organization.

395 (e) Any electioneering communication paid for with public  
396 funds must include a disclaimer containing the words "paid for  
397 by ... (Name of the government entity paying for the  
398 communication)...."

399 Section 12. Section 106.17, Florida Statutes, is reenacted  
400 to read:

401 106.17 Polls and surveys relating to candidacies.—Any  
402 candidate, political committee, committee of continuous  
403 existence, electioneering communication organization, or state  
404 or county executive committee of a political party may authorize  
405 or conduct a political poll, survey, index, or measurement of  
406 any kind relating to candidacy for public office so long as the

8-01077C-10

20102536\_\_

407 candidate, political committee, committee of continuous  
408 existence, electioneering communication organization, or  
409 political party maintains complete jurisdiction over the poll in  
410 all its aspects.

411 Section 13. This act shall take effect July 1, 2010.