

By Senator Diaz de la Portilla

36-01653A-11

20111618

1                   A bill to be entitled  
2           An act relating to elections; amending s. 106.25,  
3           F.S.; allowing a respondent who is alleged by the  
4           Elections Commission to have violated the election  
5           code or campaign financing laws to elect as a matter  
6           of right a formal hearing before the Division of  
7           Administrative Hearings; authorizing an administrative  
8           law judge to assess civil penalties upon the finding  
9           of a violation; amending s. 106.265, F.S.; authorizing  
10          an administrative law judge to assess civil penalties  
11          upon a finding of a violation of the election code or  
12          campaign financing laws; providing for civil penalties  
13          to be assessed against an electioneering  
14          communications organization; removing reference to the  
15          expired Election Campaign Financing Trust Fund;  
16          directing that moneys from penalties and fines be  
17          deposited into the General Revenue Fund; providing an  
18          effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Subsection (5) of section 106.25, Florida  
23           Statutes, is amended to read:

24           106.25 Reports of alleged violations to Florida Elections  
25           Commission; disposition of findings.—

26           (5) ~~Unless~~ A person alleged by the Elections Commission to  
27           have committed a violation of this chapter or chapter 104 may  
28           elect, as a matter of right elects, within 30 days after the  
29           date of the filing of the commission's allegations, to have a

36-01653A-11

20111618

30 formal administrative hearing conducted by an administrative law  
31 judge in the Division of Administrative Hearings. The  
32 administrative law judge in such proceedings shall enter a final  
33 order, which may include the imposition of civil penalties, and  
34 the a formal or informal hearing conducted before the  
35 commission, or elects to resolve the complaint by consent order,  
36 such person shall be entitled to a formal administrative hearing  
37 conducted by an administrative law judge in the division of  
38 administrative hearings. The administrative law judge in such  
39 proceedings shall enter a final order is subject to appeal as  
40 provided in s. 120.68.

41 Section 2. Subsections (1) through (4) of section 106.265,  
42 Florida Statutes, are amended and renumbered, and present  
43 subsection (5) of that section is renumbered as subsection (6),  
44 to read:

45 106.265 Civil penalties.—

46 (1) The commission or, in cases referred to the Division of  
47 Administrative Hearings pursuant to s. 106.25(5), the  
48 administrative law judge is authorized upon the finding of a  
49 violation of this chapter or chapter 104 to impose civil  
50 penalties in the form of fines not to exceed \$1,000 per count,  
51 or, if applicable, to impose a civil penalty as provided in s.  
52 106.19.

53 (2) In determining the amount of such civil penalties, the  
54 commission or administrative law judge shall consider, among  
55 other mitigating and aggravating circumstances:

- 56 (a) The gravity of the act or omission;  
57 (b) Any previous history of similar acts or omissions;  
58 (c) The appropriateness of such penalty to the financial

36-01653A-11

20111618

59 resources of the person, political committee, committee of  
60 continuous existence, electioneering communications  
61 organization, or political party; and

62 (d) Whether the person, political committee, committee of  
63 continuous existence, electioneering communications  
64 organization, or political party has shown good faith in  
65 attempting to comply with the provisions of this chapter or  
66 chapter 104.

67 (3)~~(2)~~ If any person, political committee, committee of  
68 continuous existence, electioneering communications  
69 organization, or political party fails or refuses to pay to the  
70 commission any civil penalties assessed pursuant to the  
71 provisions of this section, the commission shall be responsible  
72 for collecting the civil penalties resulting from such action.

73 (4)~~(3)~~ Any civil penalty collected pursuant to the  
74 provisions of this section shall be deposited into the General  
75 Revenue Fund Election Campaign Financing Trust Fund.

76 (5)~~(4)~~ ~~Notwithstanding any other provisions of this~~  
77 ~~chapter,~~ Any fine assessed pursuant to ~~the provisions of this~~  
78 ~~chapter shall,~~ ~~which fine is designated to be deposited or which~~  
79 ~~would otherwise~~ be deposited into the General Revenue Fund ~~of~~  
80 ~~the state,~~ ~~shall be deposited into the Election Campaign~~  
81 ~~Financing Trust Fund.~~

82 Section 3. This act shall take effect upon becoming a law.