



911174

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2011	.	
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The Committee on Rules Subcommittee on Ethics and Elections
(Diaz de la Portilla) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 91 - 149

and insert:

106.08 Contributions; limitations on.-

(1)

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection,



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13 an unemancipated child under the age of 18 years of age may not
14 make a contribution in excess of \$100 to any candidate or to any
15 political committee supporting one or more candidates.

16 (c) The contribution limits of this subsection apply to
17 each election. For purposes of this subsection, the primary
18 election and general election are separate elections so long as
19 the candidate is not an unopposed candidate as defined in s.
20 106.011(15). However, for the purpose of contribution limits
21 with respect to candidates for retention as a justice or judge,
22 there is only one election, which is the general election.

23 (2) (a) A candidate may not accept contributions from
24 national, state, including any subordinate committee of a
25 national, state, or county committee of a political party, and
26 county executive committees of a political party, which
27 contributions in the aggregate exceed \$50,000, no more than
28 \$25,000 of which may be accepted prior to the 28-day period
29 immediately preceding the date of the general election.

30 (b) A candidate for statewide office may not accept
31 contributions from national, state, or county executive
32 committees of a political party, including any subordinate
33 committee of a national, state, or county committee of a
34 political party, which contributions in the aggregate exceed
35 \$250,000, no more than \$125,000 of which may be accepted prior
36 to the 28-day period immediately preceding the date of the
37 general election. Polling services, research services, costs for
38 campaign staff, professional consulting services, and telephone
39 calls are not contributions to be counted toward the
40 contribution limits of paragraph (a) or this paragraph. Any item
41 not expressly identified in this paragraph as nonallocable is a



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42 contribution in an amount equal to the fair market value of the
43 item and must be counted as allocable toward the contribution
44 limits of paragraph (a) or this paragraph. Nonallocable, in-kind
45 contributions must be reported by the candidate under s. 106.07
46 and by the political party under s. 106.29.

47 (3) (a) Any contribution received by a candidate with
48 opposition in an election or by the campaign treasurer or a
49 deputy campaign treasurer of such a candidate on the day of that
50 election or less than 5 days prior to the day of that election
51 must be returned by him or her to the person or committee
52 contributing it and may not be used or expended by or on behalf
53 of the candidate.

54 (b) Except as otherwise provided in paragraph (c), any
55 contribution received by a candidate or by the campaign
56 treasurer or a deputy campaign treasurer of a candidate after
57 the date at which the candidate withdraws his or her candidacy,
58 or after the date the candidate is defeated, becomes unopposed,
59 or is elected to office must be returned to the person or
60 committee contributing it and may not be used or expended by or
61 on behalf of the candidate.

62 (c) With respect to any campaign for an office in which an
63 independent or minor party candidate has filed as required in s.
64 99.0955 or s. 99.096, but whose qualification is pending a
65 determination by the Department of State or supervisor of
66 elections as to whether or not the required number of petition
67 signatures was obtained:

68 1. The department or supervisor shall, no later than 3 days
69 after that determination has been made, notify in writing all
70 other candidates for that office of that determination.



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71 2. Any contribution received by a candidate or the campaign
72 treasurer or deputy campaign treasurer of a candidate after the
73 candidate has been notified in writing by the department or
74 supervisor that he or she has become unopposed as a result of an
75 independent or minor party candidate failing to obtain the
76 required number of petition signatures shall be returned to the
77 person, political committee, or committee of continuous
78 existence contributing it and shall not be used or expended by
79 or on behalf of the candidate.

80 (4) Any contribution received by the chair, campaign
81 treasurer, or deputy campaign treasurer of a political committee
82 supporting or opposing a candidate with opposition in an
83 election or supporting or opposing an issue on the ballot in an
84 election on the day of that election or less than 5 days prior
85 to the day of that election may not be obligated or expended by
86 the committee until after the date of the election.

87 (5) (a) A person may not make any contribution through or in
88 the name of another, directly or indirectly, in any election.

89 (b) Candidates, political committees, and political parties
90 may not solicit contributions from any religious, charitable,
91 civic, or other causes or organizations established primarily
92 for the public good.

93 (c) Candidates, political committees, and political parties
94 may not make contributions, in exchange for political support,
95 to any religious, charitable, civic, or other cause or
96 organization established primarily for the public good. It is
97 not a violation of this paragraph for:

98 1. A candidate, political committee, or political party
99 executive committee to make gifts of money in lieu of flowers in



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100 memory of a deceased person;

101 2. A candidate to continue membership in, or make regular
102 donations from personal or business funds to, religious,
103 political party, civic, or charitable groups of which the
104 candidate is a member or to which the candidate has been a
105 regular donor for more than 6 months; or

106 3. A candidate to purchase, with campaign funds, tickets,
107 admission to events, or advertisements from religious, civic,
108 political party, or charitable groups.

109 (6) (a) A political party may not accept any contribution
110 that has been specifically designated for the partial or
111 exclusive use of a particular candidate. Any contribution so
112 designated must be returned to the contributor and may not be
113 used or expended by or on behalf of the candidate.

114 (b)1. A political party may not accept any in-kind
115 contribution that fails to provide a direct benefit to the
116 political party. A "direct benefit" includes, but is not limited
117 to, fundraising or furthering the objectives of the political
118 party.

119 2.a. An in-kind contribution to a state political party may
120 be accepted only by the chairperson of the state political party
121 or by the chairperson's designee or designees whose names are on
122 file with the division in a form acceptable to the division
123 prior to the date of the written notice required in sub-
124 subparagraph b. An in-kind contribution to a county political
125 party may be accepted only by the chairperson of the county
126 political party or by the county chairperson's designee or
127 designees whose names are on file with the supervisor of
128 elections of the respective county prior to the date of the



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129 written notice required in sub-subparagraph b.

130 b. A person making an in-kind contribution to a state
131 political party or county political party must provide prior
132 written notice of the contribution to a person described in sub-
133 subparagraph a. The prior written notice must be signed and
134 dated and may be provided by an electronic or facsimile message.
135 However, prior written notice is not required for an in-kind
136 contribution that consists of food and beverage in an aggregate
137 amount not exceeding \$1,500 which is consumed at a single
138 sitting or event if such in-kind contribution is accepted in
139 advance by a person specified in sub-subparagraph a.

140 c. A person described in sub-subparagraph a. may accept an
141 in-kind contribution requiring prior written notice only in a
142 writing that is signed and dated before the in-kind contribution
143 is made. Failure to obtain the required written acceptance of an
144 in-kind contribution to a state or county political party
145 constitutes a refusal of the contribution.

146 d. A copy of each prior written acceptance required under
147 sub-subparagraph c. must be filed with the division at the time
148 the regular reports of contributions and expenditures required
149 under s. 106.29 are filed by the state executive committee and
150 county executive committee.

151 e. An in-kind contribution may not be given to a state or
152 county political party unless the in-kind contribution is made
153 as provided in this subparagraph.

154 (7) (a) Any person who knowingly and willfully makes or
155 accepts no more than one contribution in violation of subsection
156 (1) or subsection (5), or any person who knowingly and willfully
157 fails or refuses to return any contribution as required in



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158 subsection (3), commits a misdemeanor of the first degree,
159 punishable as provided in s. 775.082 or s. 775.083. If any
160 corporation, partnership, or other business entity or any
161 political party, political committee, committee of continuous
162 existence, or electioneering communications organization is
163 convicted of knowingly and willfully violating any provision
164 punishable under this paragraph, it shall be fined not less than
165 \$1,000 and not more than \$10,000. If it is a domestic entity, it
166 may be ordered dissolved by a court of competent jurisdiction;
167 if it is a foreign or nonresident business entity, its right to
168 do business in this state may be forfeited. Any officer,
169 partner, agent, attorney, or other representative of a
170 corporation, partnership, or other business entity, or of a
171 political party, political committee, committee of continuous
172 existence, electioneering communications organization, or
173 organization exempt from taxation under s. 527 or s. 501(c)(4)
174 of the Internal Revenue Code, who aids, abets, advises, or
175 participates in a violation of any provision punishable under
176 this paragraph commits a misdemeanor of the first degree,
177 punishable as provided in s. 775.082 or s. 775.083.

178 (b) Any person who knowingly and willfully makes or accepts
179 two or more contributions in violation of subsection (1) or
180 subsection (5) commits a felony of the third degree, punishable
181 as provided in s. 775.082, s. 775.083, or s. 775.084. If any
182 corporation, partnership, or other business entity or any
183 political party, political committee, committee of continuous
184 existence, or electioneering communications organization is
185 convicted of knowingly and willfully violating any provision
186 punishable under this paragraph, it shall be fined not less than



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187 \$10,000 and not more than \$50,000. If it is a domestic entity,
188 it may be ordered dissolved by a court of competent
189 jurisdiction; if it is a foreign or nonresident business entity,
190 its right to do business in this state may be forfeited. Any
191 officer, partner, agent, attorney, or other representative of a
192 corporation, partnership, or other business entity, or of a
193 political committee, committee of continuous existence,
194 political party, or electioneering communications organization,
195 or organization exempt from taxation under s. 527 or s.
196 501(c)(4) of the Internal Revenue Code, who aids, abets,
197 advises, or participates in a violation of any provision
198 punishable under this paragraph commits a felony of the third
199 degree, punishable as provided in s. 775.082, s. 775.083, or s.
200 775.084.

201 (8) Except when otherwise provided in subsection (7), any
202 person who knowingly and willfully violates any provision of
203 this section shall, in addition to any other penalty prescribed
204 by this chapter, pay to the state a sum equal to twice the
205 amount contributed in violation of this chapter. Each campaign
206 treasurer shall pay all amounts contributed in violation of this
207 section to the state for deposit in the General Revenue Fund.

208 (9) This section does not apply to the transfer of funds
209 between a primary campaign depository and a savings account or
210 certificate of deposit or to any interest earned on such account
211 or certificate.

212 (10) Contributions to a political committee or committee of
213 continuous existence may be received by an affiliated
214 organization and transferred to the bank account of the
215 political committee or committee of continuous existence via



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216 check written from the affiliated organization if such
217 contributions are specifically identified as intended to be
218 contributed to the political committee or committee of
219 continuous existence. All contributions received in this manner
220 shall be reported pursuant to s. 106.07 by the political
221 committee or committee of continuous existence as having been
222 made by the original contributor.

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224

225 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

226 And the directory clause is amended as follows:

227 Delete lines 87 - 90

228 and insert:

229 Section 4. For the purpose of incorporating the amendment made
230 by this act to paragraph (a) of subsection (1) of section
231 106.08, Florida Statutes, in a reference thereto, paragraphs (b)
232 and (c) of that subsection along with subsections (2) through
233 (10) of section 106.08, Florida Statutes, are amended to read:

234

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

236 And the title is amended as follows:

237 Delete lines 5 - 8

238 and insert:

239 reenacting ss. 106.04(5), 106.075(2),
240 106.08(1)(b), (c), (2)-(10), 106.19, and 106.29, F.S.,
241 relating to contributions made by committees of
242 continuous existence, contributions made to pay all or
243 part of loan incurred, general contribution limits and
244 restrictions and associated penalties, penalties for