

By Senator Diaz de la Portilla

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1 A bill to be entitled
 2 An act relating to elections; amending s. 106.08,
 3 F.S.; revising the limitations on contributions made
 4 to certain candidates and political committees;
 5 reenacting ss. 106.04(5), 106.075(2), 106.087, 106.19,
 6 and 106.29, F.S., relating to contributions made by
 7 committees of continuous existence, contributions made
 8 to pay all or part of loans incurred, penalties for
 9 the acceptance of contributions or expenditures made
 10 in excess of the statutory limits or failing to report
 11 or falsely reporting certain information, and
 12 contributions received and expenditures made by state
 13 executive and county executive committees of each
 14 political party, to incorporate the amendment made to
 15 s. 106.08, F.S., in references thereto; providing an
 16 effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (a) of subsection (1) of section
 21 106.08, Florida Statutes, is amended to read:

22 106.08 Contributions; limitations on.-

23 (1) (a) Except for political parties, no person, political
 24 committee, or committee of continuous existence may, in any
 25 election, make contributions ~~in excess of \$500~~ to any candidate
 26 ~~for election to or retention in office~~ or to any political
 27 committee supporting or opposing one or more candidates in
 28 excess of the following amounts:-

29 1. To a candidate for the offices of Governor and

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30 Lieutenant Governor, or any political committee supporting or
31 opposing only such candidates, \$10,000. Candidates for the
32 offices of Governor and Lieutenant Governor on the same ticket
33 are considered a single candidate for the purposes of this
34 paragraph.

35 2. To a candidate for statewide office other than the
36 offices of Governor and Lieutenant Governor, or any political
37 committee supporting or opposing only such candidates, \$5,000.

38 3. To a candidate for legislative or multicounty office, or
39 any political committee supporting or opposing only such
40 candidates, \$2,500.

41 4. To a candidate for countywide office or to a candidate
42 in any election conducted on less than a countywide basis; a
43 candidate for county court judge or circuit judge; a candidate
44 for retention as a judge of a district court of appeal or as a
45 justice of the Supreme Court; or any political committee
46 supporting or opposing only such candidates, \$1,000.

47 5. To a political committee supporting or opposing two or
48 more candidates that are subject to different contribution
49 limitations under this paragraph, the lowest of such
50 contribution limitations. Candidates for the offices of Governor
51 and Lieutenant Governor on the same ticket are considered a
52 single candidate for the purpose of this section.

53 Section 2. For the purpose of incorporating the amendment
54 made by this act to section 106.08, Florida Statutes, in a
55 reference thereto, subsection (5) of section 106.04, Florida
56 Statutes, is reenacted to read:

57 106.04 Committees of continuous existence.-

58 (5) No committee of continuous existence shall make an

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59 electioneering communication, contribute to any candidate or
60 political committee an amount in excess of the limits contained
61 in s. 106.08(1), or participate in any activity which is
62 prohibited by this chapter. If any violation occurs, it shall be
63 punishable as provided in this chapter for the given offense. No
64 funds of a committee of continuous existence shall be expended
65 on behalf of a candidate, except by means of a contribution made
66 through the duly appointed campaign treasurer of a candidate. No
67 such committee shall make expenditures in support of, or in
68 opposition to, an issue unless such committee first registers as
69 a political committee pursuant to this chapter and undertakes
70 all the practices and procedures required thereof; provided such
71 committee may make contributions in a total amount not to exceed
72 25 percent of its aggregate income, as reflected in the annual
73 report filed for the previous year, to one or more political
74 committees registered pursuant to s. 106.03 and formed to
75 support or oppose issues.

76 Section 3. For the purpose of incorporating the amendment
77 made by this act to section 106.08, Florida Statutes, in a
78 reference thereto, subsection (2) of section 106.075, Florida
79 Statutes, is reenacted to read:

80 106.075 Elected officials; report of loans made in year
81 preceding election; limitation on contributions to pay loans.—

82 (2) Any person who makes a contribution to an individual to
83 pay all or part of a loan incurred, in the 12 months preceding
84 the election, to be used for the individual's campaign, may not
85 contribute more than the amount which is allowed in s.
86 106.08(1).

87 Section 4. For the purpose of incorporating the amendment

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88 made by this act to section 106.08, Florida Statutes, in a
89 reference thereto, section 106.087, Florida Statutes, is
90 reenacted to read:

91 106.087 Independent expenditures; contribution limits;
92 restrictions on political parties, political committees, and
93 committees of continuous existence.—

94 (1) (a) As a condition of receiving a rebate of filing fees
95 and party assessment funds pursuant to s. 99.061(2), s.
96 99.092(1), s. 99.103, or s. 103.121(1) (b), the chair or
97 treasurer of a state or county executive committee shall take
98 and subscribe to an oath or affirmation in writing. During the
99 qualifying period for state candidates and prior to distribution
100 of such funds, a printed copy of the oath or affirmation shall
101 be filed with the Secretary of State and shall be substantially
102 in the following form:

103
104 State of Florida
105 County of....

106 Before me, an officer authorized to administer oaths,
107 personally appeared ...(name)..., to me well known, who, being
108 sworn, says that he or she is the ...(title)... of the ...(name
109 of party)... ...(state or specified county)... executive
110 committee; that the executive committee has not made, either
111 directly or indirectly, an independent expenditure in support of
112 or opposition to a candidate or elected public official in the
113 prior 6 months; that the executive committee will not make,
114 either directly or indirectly, an independent expenditure in
115 support of or opposition to a candidate or elected public
116 official, through and including the upcoming general election;

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117 and that the executive committee will not violate the
118 contribution limits applicable to candidates under s. 106.08(2),
119 Florida Statutes.

120 ... (Signature of committee officer)...
121 ... (Address)...

122
123 Sworn to and subscribed before me this day of,
124 ... (year)...., at County, Florida.

125 ... (Signature and title of officer administering oath)...

126
127 (b) Any executive committee found to have violated the
128 provisions of the oath or affirmation in this section prior to
129 receiving funds shall be ineligible to receive the rebate for
130 that general election year.

131 (c) Any executive committee found to have violated the
132 provisions of the oath or affirmation in this section after
133 receiving funds shall be ineligible to receive the rebate from
134 candidates qualifying for the following general election cycle.

135 (d) Any funds not distributed to the state or county
136 executive committee pursuant to this section shall be deposited
137 into the General Revenue Fund of the state.

138 (2) (a) Any political committee or committee of continuous
139 existence that accepts the use of public funds, equipment,
140 personnel, or other resources to collect dues from its members
141 agrees not to make independent expenditures in support of or
142 opposition to a candidate or elected public official. However,
143 expenditures may be made for the sole purpose of jointly
144 endorsing three or more candidates.

145 (b) Any political committee or committee of continuous

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146 existence that violates this subsection is liable for a civil
147 fine of up to \$5,000 to be determined by the Florida Elections
148 Commission or the entire amount of the expenditures, whichever
149 is greater.

150 Section 5. For the purpose of incorporating the amendment
151 made by this act to section 106.08, Florida Statutes, in a
152 reference thereto, section 106.19, Florida Statutes, is
153 reenacted to read:

154 106.19 Violations by candidates, persons connected with
155 campaigns, and political committees.—

156 (1) Any candidate; campaign manager, campaign treasurer, or
157 deputy treasurer of any candidate; committee chair, vice chair,
158 campaign treasurer, deputy treasurer, or other officer of any
159 political committee; agent or person acting on behalf of any
160 candidate or political committee; or other person who knowingly
161 and willfully:

162 (a) Accepts a contribution in excess of the limits
163 prescribed by s. 106.08;

164 (b) Fails to report any contribution required to be
165 reported by this chapter;

166 (c) Falsely reports or deliberately fails to include any
167 information required by this chapter; or

168 (d) Makes or authorizes any expenditure in violation of s.
169 106.11(4) or any other expenditure prohibited by this chapter;

170
171 is guilty of a misdemeanor of the first degree, punishable as
172 provided in s. 775.082 or s. 775.083.

173 (2) Any candidate, campaign treasurer, or deputy treasurer;
174 any chair, vice chair, or other officer of any political

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175 committee; any agent or person acting on behalf of any candidate
176 or political committee; or any other person who violates
177 paragraph (1)(a), paragraph (1)(b), or paragraph (1)(d) shall be
178 subject to a civil penalty equal to three times the amount
179 involved in the illegal act. Such penalty may be in addition to
180 the penalties provided by subsection (1) and shall be paid into
181 the General Revenue Fund of this state.

182 (3) A political committee sponsoring a constitutional
183 amendment proposed by initiative which submits a petition form
184 gathered by a paid petition circulator which does not provide
185 the name and address of the paid petition circulator on the form
186 is subject to the civil penalties prescribed in s. 106.265.

187 Section 6. For the purpose of incorporating the amendment
188 made by this act to section 106.08, Florida Statutes, in a
189 reference thereto, section 106.29, Florida Statutes, is
190 reenacted to read:

191 106.29 Reports by political parties; restrictions on
192 contributions and expenditures; penalties.-

193 (1) The state executive committee and each county executive
194 committee of each political party regulated by chapter 103 shall
195 file regular reports of all contributions received and all
196 expenditures made by such committee. Such reports shall contain
197 the same information as do reports required of candidates by s.
198 106.07 and shall be filed on the 10th day following the end of
199 each calendar quarter, except that, during the period from the
200 last day for candidate qualifying until the general election,
201 such reports shall be filed on the Friday immediately preceding
202 both the primary election and the general election. In addition
203 to the reports filed under this section, the state executive

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204 committee and each county executive committee shall file a copy
205 of each prior written acceptance of an in-kind contribution
206 given by the committee during the preceding calendar quarter as
207 required under s. 106.08(6). Each state executive committee
208 shall file the original and one copy of its reports with the
209 Division of Elections. Each county executive committee shall
210 file its reports with the supervisor of elections in the county
211 in which such committee exists. Any state or county executive
212 committee failing to file a report on the designated due date
213 shall be subject to a fine as provided in subsection (3). No
214 separate fine shall be assessed for failure to file a copy of
215 any report required by this section.

216 (2) The chair and treasurer of each state or county
217 executive committee shall certify as to the correctness of each
218 report filed by them on behalf of such committee. Any committee
219 chair or treasurer who certifies the correctness of any report
220 while knowing that such report is incorrect, false, or
221 incomplete commits a felony of the third degree, punishable as
222 provided in s. 775.082, s. 775.083, or s. 775.084.

223 (3) (a) Any state or county executive committee failing to
224 file a report on the designated due date shall be subject to a
225 fine as provided in paragraph (b) for each late day. The fine
226 shall be assessed by the filing officer, and the moneys
227 collected shall be deposited in the General Revenue Fund.

228 (b) Upon determining that a report is late, the filing
229 officer shall immediately notify the chair of the executive
230 committee as to the failure to file a report by the designated
231 due date and that a fine is being assessed for each late day.
232 The fine shall be \$1,000 for a state executive committee, and

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233 \$50 for a county executive committee, per day for each late day,
234 not to exceed 25 percent of the total receipts or expenditures,
235 whichever is greater, for the period covered by the late report.
236 However, if an executive committee fails to file a report on the
237 Friday immediately preceding the general election, the fine
238 shall be \$10,000 per day for each day a state executive
239 committee is late and \$500 per day for each day a county
240 executive committee is late. Upon receipt of the report, the
241 filing officer shall determine the amount of the fine which is
242 due and shall notify the chair. The filing officer shall
243 determine the amount of the fine due based upon the earliest of
244 the following:

- 245 1. When the report is actually received by such officer.
- 246 2. When the report is postmarked.
- 247 3. When the certificate of mailing is dated.
- 248 4. When the receipt from an established courier company is
249 dated.
- 250 5. When the electronic receipt issued pursuant to s.
251 106.0705 is dated.

252

253 Such fine shall be paid to the filing officer within 20 days
254 after receipt of the notice of payment due, unless appeal is
255 made to the Florida Elections Commission pursuant to paragraph
256 (c). An officer or member of an executive committee shall not be
257 personally liable for such fine.

258 (c) The chair of an executive committee may appeal or
259 dispute the fine, based upon unusual circumstances surrounding
260 the failure to file on the designated due date, and may request
261 and shall be entitled to a hearing before the Florida Elections

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262 Commission, which shall have the authority to waive the fine in
263 whole or in part. Any such request shall be made within 20 days
264 after receipt of the notice of payment due. In such case, the
265 chair of the executive committee shall, within the 20-day
266 period, notify the filing officer in writing of his or her
267 intention to bring the matter before the commission.

268 (d) The appropriate filing officer shall notify the Florida
269 Elections Commission of the repeated late filing by an executive
270 committee, the failure of an executive committee to file a
271 report after notice, or the failure to pay the fine imposed.

272 (4) Any contribution received by a state or county
273 executive committee less than 5 days before an election shall
274 not be used or expended in behalf of any candidate, issue, or
275 political party participating in such election.

276 (5) No state or county executive committee, in the
277 furtherance of any candidate or political party, directly or
278 indirectly, shall give, pay, or expend any money, give or pay
279 anything of value, authorize any expenditure, or become
280 pecuniarily liable for any expenditure prohibited by this
281 chapter. However, the contribution of funds by one executive
282 committee to another or to established party organizations for
283 legitimate party or campaign purposes is not prohibited, but all
284 such contributions shall be recorded and accounted for in the
285 reports of the contributor and recipient.

286 (6) (a) The national, state, and county executive committees
287 of a political party may not contribute to any candidate any
288 amount in excess of the limits contained in s. 106.08(2), and
289 all contributions required to be reported under s. 106.08(2) by
290 the national executive committee of a political party shall be

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291 reported by the state executive committee of that political
292 party.

293 (b) A violation of the contribution limits contained in s.
294 106.08(2) is a misdemeanor of the first degree, punishable as
295 provided in s. 775.082 or s. 775.083. A civil penalty equal to
296 three times the amount in excess of the limits contained in s.
297 106.08(2) shall be assessed against any executive committee
298 found in violation thereof.

299 Section 7. This act shall take effect July 1, 2011.