

By Senator Jones

35-01718-21

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1                                   A bill to be entitled  
2           An act relating to candidate qualifying and campaign  
3           expenditures; amending s. 99.012, F.S.; prohibiting a  
4           person from qualifying as a candidate for state,  
5           district, county, or municipal office in certain  
6           circumstances; amending s. 99.061, F.S.; providing  
7           requirements for the check with which a candidate's  
8           qualifying fee is paid; amending s. 106.07, F.S.;  
9           providing requirements for the notice a filing officer  
10          is required to provide to a candidate in certain  
11          circumstances; prohibiting a person who owes a certain  
12          fine from qualifying as a candidate for election to  
13          office until such fine is paid; requiring the filing  
14          officer to report certain information to an  
15          appropriate elections official, who shall prohibit  
16          such person from qualifying as a candidate for  
17          election for a certain period; amending s. 106.11,  
18          F.S.; providing that checks for a campaign account may  
19          not contain certain information; amending s. 112.324,  
20          F.S.; prohibiting a person under investigation by the  
21          Commission on Ethics from qualifying as a candidate  
22          for election in certain circumstances; requiring the  
23          commission to provide such person a written notice  
24          containing certain information; requiring the  
25          commission to report certain information to an  
26          appropriate elections official, who shall prohibit  
27          such person from qualifying as a candidate for  
28          election for a certain period; providing an effective  
29          date.

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31 Be It Enacted by the Legislature of the State of Florida:  
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33 Section 1. Present subsections (6), (7), and (8) of section  
34 99.012, Florida Statutes, are redesignated as subsections (8),  
35 (9), and (10), respectively, and new subsections (6) and (7) are  
36 added to that section, to read:

37 99.012 Restrictions on individuals qualifying for public  
38 office.—

39 (6) No person may qualify as a candidate for state,  
40 district, county, or municipal office during an investigation by  
41 the Commission on Ethics in which the commission has determined  
42 that there is probable cause to believe that the person has  
43 violated the Code of Ethics for Public Officers and Employees as  
44 set forth in part III of chapter 112 or committed any other  
45 breach of the public trust within the jurisdiction of the  
46 commission.

47 (7) No person who owes a fine imposed under s. 106.07(8)  
48 for failure to file a campaign finance report during a previous  
49 campaign may qualify as a candidate for state, district, county,  
50 or municipal office until the fine is paid.

51 Section 2. Paragraph (a) of subsection (7) of section  
52 99.061, Florida Statutes, is amended to read:

53 99.061 Method of qualifying for nomination or election to  
54 federal, state, county, or district office.—

55 (7) (a) In order for a candidate to be qualified, the  
56 following items must be received by the filing officer by the  
57 end of the qualifying period:

58 1. A properly executed check drawn upon the candidate's

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59 campaign account payable to the person or entity as prescribed  
60 by the filing officer in an amount not less than the fee  
61 required by s. 99.092, unless the candidate obtained the  
62 required number of signatures on petitions pursuant to s.  
63 99.095. The check may not contain information unrelated to the  
64 candidate's campaign, including, but not limited to, the name of  
65 an unrelated entity or a previous campaign, and may not be  
66 manually altered to remove prohibited information or to include  
67 required information. The filing fee for a special district  
68 candidate is not required to be drawn upon the candidate's  
69 campaign account. If a candidate's check is returned by the bank  
70 for any reason, the filing officer shall immediately notify the  
71 candidate and the candidate shall have until the end of  
72 qualifying to pay the fee with a cashier's check purchased from  
73 funds of the campaign account. Failure to pay the fee as  
74 provided in this subparagraph shall disqualify the candidate.

75 2. The candidate's oath required by s. 99.021, which must  
76 contain the name of the candidate as it is to appear on the  
77 ballot; the office sought, including the district or group  
78 number if applicable; and the signature of the candidate, which  
79 must be verified under oath or affirmation pursuant to s.  
80 92.525(1) (a).

81 3. If the office sought is partisan, the written statement  
82 of political party affiliation required by s. 99.021(1) (b).

83 4. The completed form for the appointment of campaign  
84 treasurer and designation of campaign depository, as required by  
85 s. 106.021.

86 5. The full and public disclosure or statement of financial  
87 interests required by subsection (5). A public officer who has

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88 filed the full and public disclosure or statement of financial  
89 interests with the Commission on Ethics or the supervisor of  
90 elections prior to qualifying for office may file a copy of that  
91 disclosure at the time of qualifying.

92 Section 3. Paragraph (b) of subsection (8) of section  
93 106.07, Florida Statutes, is amended, and subsection (9) is  
94 added to that section, to read:

95 106.07 Reports; certification and filing.—

96 (8)(b) Upon determining that a report is late, the filing  
97 officer shall immediately notify the candidate or chair of the  
98 political committee as to the failure to file a report by the  
99 designated due date and that a fine is being assessed for each  
100 late day. The notification must also inform the candidate that a  
101 person who owes a fine imposed under this paragraph may not  
102 qualify as a candidate for election to state, district, county,  
103 or municipal office in any subsequent election until the fine is  
104 paid. The fine is \$50 per day for the first 3 days late and,  
105 thereafter, \$500 per day for each late day, not to exceed 25  
106 percent of the total receipts or expenditures, whichever is  
107 greater, for the period covered by the late report. However, for  
108 the reports immediately preceding each special primary election,  
109 special election, primary election, and general election, the  
110 fine is \$500 per day for each late day, not to exceed 25 percent  
111 of the total receipts or expenditures, whichever is greater, for  
112 the period covered by the late report. For reports required  
113 under s. 106.141(8), the fine is \$50 per day for each late day,  
114 not to exceed 25 percent of the total receipts or expenditures,  
115 whichever is greater, for the period covered by the late report.  
116 Upon receipt of the report, the filing officer shall determine

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117 the amount of the fine which is due and shall notify the  
118 candidate or chair or registered agent of the political  
119 committee. The filing officer shall determine the amount of the  
120 fine due based upon the earliest of the following:

- 121 1. When the report is actually received by such officer.
- 122 2. When the report is postmarked.
- 123 3. When the certificate of mailing is dated.
- 124 4. When the receipt from an established courier company is  
125 dated.
- 126 5. When the electronic receipt issued pursuant to s.  
127 106.0705 or other electronic filing system authorized in this  
128 section is dated.

129  
130 Such fine shall be paid to the filing officer within 20 days  
131 after receipt of the notice of payment due, unless appeal is  
132 made to the Florida Elections Commission pursuant to paragraph  
133 (c). Notice is deemed complete upon proof of delivery of written  
134 notice to the mailing or street address on record with the  
135 filing officer. In the case of a candidate, such fine is not an  
136 allowable campaign expenditure and shall be paid only from  
137 personal funds of the candidate. An officer or member of a  
138 political committee is not personally liable for such fine.

139 (9) A person who owes a fine imposed under paragraph (8)  
140 may not qualify as a candidate for election to state, district,  
141 county, or municipal office in any subsequent election until the  
142 fine is paid. The filing officer shall notify the appropriate  
143 elections official of the unpaid fine, who shall prohibit the  
144 person from qualifying as a candidate until the fine is paid.  
145 The filing officer shall notify the elections official upon

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146 payment of such fine.

147 Section 4. Paragraph (c) is added to subsection (1) of  
148 section 106.11, Florida Statutes, to read:

149 106.11 Expenses of and expenditures by candidates and  
150 political committees.—Each candidate and each political  
151 committee which designates a primary campaign depository  
152 pursuant to s. 106.021(1) shall make expenditures from funds on  
153 deposit in such primary campaign depository only in the  
154 following manner, with the exception of expenditures made from  
155 petty cash funds provided by s. 106.12:

156 (1)

157 (c) The checks for such account may not contain the name of  
158 an unrelated entity or a prior campaign.

159 Section 5. Subsection (3) of section 112.324, Florida  
160 Statutes, is amended to read:

161 112.324 Procedures on complaints of violations and  
162 referrals; public records and meeting exemptions.—

163 (3) (a) A preliminary investigation shall be undertaken by  
164 the commission of each legally sufficient complaint or referral  
165 over which the commission has jurisdiction to determine whether  
166 there is probable cause to believe that a violation has  
167 occurred. If, upon completion of the preliminary investigation,  
168 the commission finds no probable cause to believe that this part  
169 has been violated or that any other breach of the public trust  
170 has been committed, the commission shall dismiss the complaint  
171 or referral with the issuance of a public report to the  
172 complainant and the alleged violator, stating with particularity  
173 its reasons for dismissal. At that time, the complaint or  
174 referral and all materials relating to the complaint or referral

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175 shall become a matter of public record. If the commission finds  
176 from the preliminary investigation probable cause to believe  
177 that this part has been violated or that any other breach of the  
178 public trust has been committed, it shall so notify the  
179 complainant and the alleged violator in writing. Such  
180 notification and all documents made or received in the  
181 disposition of the complaint or referral shall then become  
182 public records.

183 (b) If, upon completion of the preliminary investigation,  
184 the commission determines that there is probable cause to  
185 believe that this part has been violated or that any other  
186 breach of the public trust has been committed, the alleged  
187 violator may not qualify as a candidate for election to state,  
188 district, county, or municipal office until completion of a full  
189 and final investigation or dismissal of the complaint or  
190 referral by the commission.

191 (c) The commission shall notify the alleged violator in  
192 writing that he or she may not qualify as a candidate for  
193 election to state, district, county, or municipal office until  
194 completion of a full and final investigation or dismissal of the  
195 complaint or referral by the commission.

196 (d) The commission shall report the determination of  
197 probable cause to the appropriate elections official, who shall  
198 prohibit the alleged violator from qualifying as a candidate for  
199 election to state, district, county, or municipal office until  
200 completion of a full and final investigation or dismissal of the  
201 complaint or referral by the commission. The commission shall  
202 notify the elections official upon such completion or dismissal.

203 (e) Upon request submitted to the commission in writing,

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204 any person who the commission finds probable cause to believe  
205 has violated any provision of this part or has committed any  
206 other breach of the public trust shall be entitled to a public  
207 hearing. Such person shall be deemed to have waived the right to  
208 a public hearing if the request is not received within 14 days  
209 following the mailing of the probable cause notification  
210 required by this subsection. However, the commission may on its  
211 own motion, require a public hearing, may conduct such further  
212 investigation as it deems necessary, and may enter into such  
213 stipulations and settlements as it finds to be just and in the  
214 best interest of the state.

215 (f) The commission is without jurisdiction to, and no  
216 respondent may voluntarily or involuntarily, enter into a  
217 stipulation or settlement which imposes any penalty, including,  
218 but not limited to, a sanction or admonition or any other  
219 penalty contained in s. 112.317. Penalties shall be imposed only  
220 by the appropriate disciplinary authority as designated in this  
221 section.

222 Section 6. This act shall take effect July 1, 2021.