

By Senator Hutson

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1 A bill to be entitled
2 An act relating to audits of campaign finance reports;
3 amending s. 106.141, F.S.; authorizing certain
4 candidates to request the Division of Elections of the
5 Department of State to audit a specified report;
6 providing that the period for a candidate to dispose
7 of funds and file a report is tolled for a specified
8 timeframe; authorizing candidates to maintain a
9 campaign account during the audit for a specified
10 purpose; amending s. 106.22, F.S.; requiring the
11 division to conduct audits and field investigations
12 with respect to candidates' alleged failures to file
13 certain reports or statements; requiring the division
14 to conduct random audits of specified reports after
15 each general election cycle; providing that the
16 auditing must consist of a certain percentage of all
17 qualified candidates in specified office groups;
18 requiring the division to adopt specified rules by a
19 certain date; requiring treasurers of specified
20 entities to maintain valid contact information with
21 the division for a specified timeframe; exempting
22 aspects of the auditing process from the
23 Administrative Procedure Act; amending s. 106.021,
24 F.S.; conforming a cross-reference; reenacting and
25 amending s. 106.07, F.S.; conforming a cross-
26 reference; reenacting ss. 106.11(5)(d) and 717.1235,
27 F.S., relating to disposition of surplus funds for
28 individuals who withdrew, became unopposed, or were
29 eliminated as candidates and the disposition of funds

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30 in certain dormant campaign accounts, respectively, to
31 incorporate the amendment made to s. 106.141, F.S., in
32 references thereto; providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Present subsections (2) through (11) of section
37 106.141, Florida Statutes, are redesignated as subsections (3)
38 through (12), respectively, a new subsection (2) is added to
39 that section, and subsection (1), present subsection (5),
40 paragraph (b) of present subsection (6), present subsection (7),
41 paragraph (a) of present subsection (8), and present subsection
42 (9) are amended, to read:

43 106.141 Disposition of surplus funds by candidates.—

44 (1) Except as provided in subsection (7) ~~(6)~~, each
45 candidate who withdraws his or her candidacy, becomes an
46 unopposed candidate, or is eliminated as a candidate or elected
47 to office shall, within 90 days, dispose of the funds on deposit
48 in his or her campaign account and file a report reflecting the
49 disposition of all remaining funds. Such candidate may not
50 accept any contributions, nor may any person accept
51 contributions on behalf of such candidate, after the candidate
52 withdraws his or her candidacy, becomes unopposed, or is
53 eliminated or elected. However, if a candidate receives a refund
54 check after all surplus funds have been disposed of, the check
55 may be endorsed by the candidate and the refund disposed of
56 under this section. An amended report must be filed showing the
57 refund and subsequent disposition.

58 (2) A candidate required to dispose of funds pursuant to

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59 this section may, before such disposition, request that the
60 division audit the report required by subsection (1). The 90-day
61 period to dispose of funds and file the report is tolled until
62 10 business days after the division's audit is final. The
63 candidate may maintain the campaign account during such audit
64 for the sole purpose of making expenditures to correct audit
65 findings.

66 (6)~~(5)~~ A candidate elected to office or a candidate who
67 will be elected to office by virtue of his or her being
68 unopposed may, in addition to the disposition methods provided
69 in subsection (5) ~~(4)~~, transfer from the campaign account to an
70 office account any amount of the funds on deposit in such
71 campaign account up to:

72 (a) Fifty thousand dollars, for a candidate for statewide
73 office. The Governor and Lieutenant Governor shall be considered
74 separate candidates for the purpose of this section.

75 (b) Ten thousand dollars, for a candidate for multicounty
76 office.

77 (c) Ten thousand dollars multiplied by the number of years
78 in the term of office for which elected, for a candidate for
79 legislative office.

80 (d) Five thousand dollars multiplied by the number of years
81 in the term of office for which elected, for a candidate for
82 county office or for a candidate in any election conducted on
83 less than a countywide basis.

84 (e) Six thousand dollars, for a candidate for retention as
85 a justice of the Supreme Court.

86 (f) Three thousand dollars, for a candidate for retention
87 as a judge of a district court of appeal.

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88 (g) Three thousand dollars, for a candidate for county
89 court judge or circuit judge.

90
91 The office account established pursuant to this subsection shall
92 be separate from any personal or other account. Any funds so
93 transferred by a candidate shall be used only for legitimate
94 expenses in connection with the candidate's public office. Such
95 expenses may include travel expenses incurred by the officer or
96 a staff member; personal taxes payable on office account funds
97 by the candidate or elected public official; professional
98 services provided by a certified public accountant or attorney
99 for preparation of the elected public official's financial
100 disclosure filing pursuant to s. 112.3144 or s. 112.3145; costs
101 to prepare, print, produce, and mail holiday cards or
102 newsletters about the elected public official's public business
103 to constituents if such correspondence does not constitute a
104 political advertisement, independent expenditure, or
105 electioneering communication as provided in s. 106.011; fees or
106 dues to religious, civic, or charitable organizations of which
107 the elected public official is a member; items of modest value
108 such as flowers, greeting cards, or personal notes given as a
109 substitute for, or in association with, an elected public
110 official's personal attendance at a constituent's special event
111 or family occasion, such as the birth of a child, graduation,
112 wedding, or funeral; personal expenses incurred by the elected
113 public official in connection with attending a constituent
114 meeting or event where public policy is discussed, if such
115 meetings or events are limited to no more than once a week; or
116 expenses incurred in the operation of the elected public

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117 official's office, including the employment of additional staff.
118 The funds may be deposited in a savings account; however, all
119 deposits, withdrawals, and interest earned thereon shall be
120 reported at the appropriate reporting period. If a candidate is
121 reelected to office or elected to another office and has funds
122 remaining in his or her office account, he or she may transfer
123 surplus campaign funds to the office account. At no time may the
124 funds in the office account exceed the limitation imposed by
125 this subsection. Upon leaving public office, any person who has
126 funds in an office account pursuant to this subsection remaining
127 on deposit shall use such funds to pay for professional services
128 provided by a certified public accountant or attorney for
129 preparation of the elected public official's final financial
130 disclosure filing pursuant to s. 112.3144 or s. 112.3145, or
131 give such funds to a charitable organization that meets the
132 requirements of s. 501(c)(3) of the Internal Revenue Code or, in
133 the case of a state officer, to the state to be deposited in the
134 General Revenue Fund or, in the case of an officer of a
135 political subdivision, to the political subdivision to be
136 deposited in the general fund thereof.

137 (7)~~(6)~~

138 (b) A candidate elected to state office or a candidate who
139 will be elected to state office by virtue of his or her being
140 unopposed after candidate qualifying ends, may retain up to
141 \$20,000 in his or her campaign account, or in an interest-
142 bearing account or certificate of deposit, for use in his or her
143 next campaign for the same office, in addition to the
144 disposition methods provided in subsections (5) ~~(4)~~ and (6) ~~(5)~~.
145 All requirements applicable to candidate campaign accounts under

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146 this chapter, including disclosure requirements applicable to
147 candidate campaign accounts, limitations on expenditures, and
148 limitations on contributions, apply to any retained funds.

149 (8)~~(7)~~ Before disposing of funds pursuant to subsection (5)
150 ~~(4)~~, transferring funds into an office account pursuant to
151 subsection (6) ~~(5)~~, or retaining funds for reelection pursuant
152 to subsection (7) ~~(6)~~, any candidate who filed an oath stating
153 that he or she was unable to pay the fee for verification of
154 petition signatures without imposing an undue burden on his or
155 her personal resources or on resources otherwise available to
156 him or her shall reimburse the state or local governmental
157 entity, whichever is applicable, for such waived fee. If there
158 are insufficient funds in the account to pay the full amount of
159 the fee, the remaining funds shall be disbursed in the above
160 manner until no funds remain. All funds disbursed pursuant to
161 this subsection shall be remitted to the qualifying officer. Any
162 reimbursement for petition verification costs which are
163 reimbursable by the state shall be forwarded by the qualifying
164 officer to the state for deposit in the General Revenue Fund.

165 (9)~~(8)~~(a) Any candidate required to dispose of campaign
166 funds pursuant to this section shall do so within the time
167 required by this section and, on or before the date by which
168 such disposition is to have been made, shall file with the
169 officer with whom reports are required to be filed pursuant to
170 s. 106.07 a form prescribed by the Division of Elections
171 listing:

172 1. The name and address of each person or unit of
173 government to whom any of the funds were distributed and the
174 amounts thereof;

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175 2. The name and address of each person to whom an
176 expenditure was made, together with the amount thereof and
177 purpose therefor;

178 3. The amount of such funds transferred to an office
179 account by the candidate, together with the name and address of
180 the bank, savings and loan association, or credit union in which
181 the office account is located; and

182 4. The amount of such funds retained pursuant to subsection
183 (7) ~~(6)~~, together with the name and address of the bank, savings
184 and loan association, or credit union in which the retained
185 funds are located.

186
187 Such report shall be signed by the candidate and the campaign
188 treasurer and certified as true and correct pursuant to s.
189 106.07.

190 (10) ~~(9)~~ Any candidate elected to office who transfers
191 surplus campaign funds into an office account pursuant to
192 subsection (6) ~~(5)~~ shall file a report on the 10th day following
193 the end of each calendar quarter until the account is closed.
194 Such reports shall contain the name and address of each person
195 to whom any disbursement of funds was made, together with the
196 amount thereof and the purpose therefor, and the name and
197 address of any person from whom the elected candidate received
198 any refund or reimbursement and the amount thereof. Such reports
199 shall be on forms prescribed by the Division of Elections,
200 signed by the elected candidate, certified as true and correct,
201 and filed with the officer with whom campaign reports were filed
202 pursuant to s. 106.07(2).

203 Section 2. Subsections (6) and (10) of section 106.22,

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204 Florida Statutes, are amended to read:

205 106.22 Duties of the Division of Elections.—It is the duty
206 of the Division of Elections to:

207 (6) Conduct ~~Make, from time to time,~~ audits and field
208 investigations with respect to ~~reports and statements filed~~
209 ~~under the provisions of this chapter and with respect to~~ alleged
210 failures to file any report or statement required under ~~the~~
211 ~~provisions of~~ this chapter. The division shall conduct a
212 postelection audit of the campaign accounts of all candidates
213 receiving contributions from the Election Campaign Financing
214 Trust Fund.

215 (10) (a) Conduct random audits of ~~with respect to~~ reports
216 ~~and statements~~ filed under this chapter after each general
217 election cycle ~~and with respect to alleged failure to file any~~
218 ~~reports and statements required under this chapter.~~ The audits
219 must be of a random sample of 3 percent of:

220 1. All qualified candidates in each of the following office
221 groups:

222 a. State.

223 b. Judicial.

224 c. Multicounty.

225 d. Special district.

226 2. All political committees.

227 3. All electioneering communication organizations.

228 (b) The division shall adopt rules governing the sample
229 selection process by October 1, 2024.

230 (c) The treasurer of each candidate, political committee,
231 or electioneering communication organization shall maintain
232 valid contact information with the division until the division

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233 determines that the candidate, political committee, or
234 electioneering communication organization has not been selected
235 for an audit, or, if selected, until completion of the audit.

236 (d) The selection of a candidate, political committee, or
237 electioneering communication organization for audit and the
238 process by which the candidate, political committee, or
239 electioneering communication organization was selected are
240 exempt from chapter 120.

241 Section 3. Paragraph (a) of subsection (1) of section
242 106.021, Florida Statutes, is amended to read:

243 106.021 Campaign treasurers; deputies; primary and
244 secondary depositories.—

245 (1) (a) Each candidate for nomination or election to office
246 and each political committee shall appoint a campaign treasurer.
247 Each person who seeks to qualify for nomination or election to,
248 or retention in, office shall appoint a campaign treasurer and
249 designate a primary campaign depository before qualifying for
250 office. Any person who seeks to qualify for election or
251 nomination to any office by means of the petitioning process
252 shall appoint a treasurer and designate a primary depository on
253 or before the date he or she obtains the petitions. At the same
254 time a candidate designates a campaign depository and appoints a
255 treasurer, the candidate shall also designate the office for
256 which he or she is a candidate. If the candidate is running for
257 an office that will be grouped on the ballot with two or more
258 similar offices to be filled at the same election, the candidate
259 must indicate for which group or district office he or she is
260 running. This subsection does not prohibit a candidate, at a
261 later date, from changing the designation of the office for

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262 which he or she is a candidate. However, if a candidate changes
263 the designated office for which he or she is a candidate, the
264 candidate must notify all contributors in writing of the intent
265 to seek a different office and offer to return pro rata, upon
266 their request, those contributions given in support of the
267 original office sought. This notification shall be given within
268 15 days after the filing of the change of designation and shall
269 include a standard form developed by the Division of Elections
270 for requesting the return of contributions. The notice
271 requirement does not apply to any change in a numerical
272 designation resulting solely from redistricting. If, within 30
273 days after being notified by the candidate of the intent to seek
274 a different office, the contributor notifies the candidate in
275 writing that the contributor wishes his or her contribution to
276 be returned, the candidate shall return the contribution, on a
277 pro rata basis, calculated as of the date the change of
278 designation is filed. Up to a maximum of the contribution limits
279 specified in s. 106.08, a candidate who runs for an office other
280 than the office originally designated may use any contribution
281 that a donor does not request be returned within the 30-day
282 period for the newly designated office, provided the candidate
283 disposes of any amount exceeding the contribution limit pursuant
284 to the options in s. 106.11(5)(b) and (c) or s. 106.141(5)(a)1.,
285 2., or 4. ~~s. 106.141(4)(a)1., 2., or 4.~~; notwithstanding, the
286 full amount of the contribution for the original office shall
287 count toward the contribution limits specified in s. 106.08 for
288 the newly designated office. A person may not accept any
289 contribution or make any expenditure with a view to bringing
290 about his or her nomination, election, or retention in public

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291 office, or authorize another to accept such contributions or
292 make such expenditure on the person's behalf, unless such person
293 has appointed a campaign treasurer and designated a primary
294 campaign depository. A candidate for an office voted upon
295 statewide may appoint not more than 15 deputy campaign
296 treasurers, and any other candidate or political committee may
297 appoint not more than 3 deputy campaign treasurers. The names
298 and addresses of the campaign treasurer and deputy campaign
299 treasurers so appointed shall be filed with the officer before
300 whom such candidate is required to qualify or with whom such
301 political committee is required to register pursuant to s.
302 106.03.

303 Section 4. Paragraph (b) of subsection (8) of section
304 106.07, Florida Statutes, is amended, and paragraph (c) of
305 subsection (1) of that section is reenacted, to read:

306 106.07 Reports; certification and filing.—

307 (1) Each campaign treasurer designated by a candidate or
308 political committee pursuant to s. 106.021 shall file regular
309 reports of all contributions received, and all expenditures
310 made, by or on behalf of such candidate or political committee.
311 Except for the third calendar quarter immediately preceding a
312 general election, reports must be filed on the 10th day
313 following the end of each calendar quarter from the time the
314 campaign treasurer is appointed, except that, if the 10th day
315 following the end of a calendar quarter occurs on a Saturday,
316 Sunday, or legal holiday, the report must be filed on the next
317 following day that is not a Saturday, Sunday, or legal holiday.
318 Quarterly reports must include all contributions received and
319 expenditures made during the calendar quarter which have not

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320 otherwise been reported pursuant to this section.

321 (c) Following the last day of qualifying for office, any
322 unopposed candidate need only file a report within 90 days after
323 the date such candidate became unopposed. Such report shall
324 contain all previously unreported contributions and expenditures
325 as required by this section and shall reflect disposition of
326 funds as required by s. 106.141.

327 (8)

328 (b) Upon determining that a report is late, the filing
329 officer shall immediately notify the candidate or chair of the
330 political committee as to the failure to file a report by the
331 designated due date and that a fine is being assessed for each
332 late day. The fine is \$50 per day for the first 3 days late and,
333 thereafter, \$500 per day for each late day, not to exceed 25
334 percent of the total receipts or expenditures, whichever is
335 greater, for the period covered by the late report. However, for
336 the reports immediately preceding each special primary election,
337 special election, primary election, and general election, the
338 fine is \$500 per day for each late day, not to exceed 25 percent
339 of the total receipts or expenditures, whichever is greater, for
340 the period covered by the late report. For reports required
341 under s. 106.141(9) ~~s. 106.141(8)~~, the fine is \$50 per day for
342 each late day, not to exceed 25 percent of the total receipts or
343 expenditures, whichever is greater, for the period covered by
344 the late report. Upon receipt of the report, the filing officer
345 shall determine the amount of the fine which is due and shall
346 notify the candidate or chair or registered agent of the
347 political committee. The filing officer shall determine the
348 amount of the fine due based upon the earliest of the following:

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349 1. When the report is actually received by such officer.

350 2. When the report is postmarked.

351 3. When the certificate of mailing is dated.

352 4. When the receipt from an established courier company is
353 dated.

354 5. When the electronic receipt issued pursuant to s.
355 106.0705 or other electronic filing system authorized in this
356 section is dated.

357
358 Such fine shall be paid to the filing officer within 20 days
359 after receipt of the notice of payment due, unless appeal is
360 made to the Florida Elections Commission pursuant to paragraph
361 (c). Notice is deemed complete upon proof of delivery of written
362 notice to the mailing or street address on record with the
363 filing officer. In the case of a candidate, such fine is not an
364 allowable campaign expenditure and shall be paid only from
365 personal funds of the candidate. An officer or member of a
366 political committee is not personally liable for such fine.

367 Section 5. For the purpose of incorporating the amendment
368 made by this act to section 106.141, Florida Statutes, in a
369 reference thereto, paragraph (d) of subsection (5) of section
370 106.11, Florida Statutes, is reenacted to read:

371 106.11 Expenses of and expenditures by candidates and
372 political committees.—Each candidate and each political
373 committee which designates a primary campaign depository
374 pursuant to s. 106.021(1) shall make expenditures from funds on
375 deposit in such primary campaign depository only in the
376 following manner, with the exception of expenditures made from
377 petty cash funds provided by s. 106.12:

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378 (5) A candidate who withdraws his or her candidacy, becomes
379 an unopposed candidate, or is eliminated as a candidate or
380 elected to office may expend funds from the campaign account to:

381 (d) Dispose of surplus funds as provided in s. 106.141.

382 Section 6. For the purpose of incorporating the amendment
383 made by this act to section 106.141, Florida Statutes, in a
384 reference thereto, section 717.1235, Florida Statutes, is
385 reenacted to read:

386 717.1235 Dormant campaign accounts; report of unclaimed
387 property.—Unclaimed funds reported in the name of a campaign for
388 public office, for any campaign that must dispose of surplus
389 funds in its campaign account pursuant to s. 106.141, after
390 being reported to the department, shall be deposited with the
391 Chief Financial Officer to the credit of the State School Fund.

392 Section 7. This act shall take effect upon becoming a law.