

By the Committee on Ethics and Elections; and Senator Hutson

582-02131-24

2024884c1

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 the division to complete the
20 selection process within a specified timeframe and
21 promptly notify treasurers of specified entities
22 selected; requiring such treasurers to maintain valid
23 contact information with the division for a specified
24 timeframe; exempting aspects of the auditing process
25 from the Administrative Procedure Act; providing that
26 the period for candidates to dispose of funds and file
27 a report is tolled for a specified timeframe under
28 specified conditions; authorizing candidates to
29 maintain a campaign account for a specified purpose

582-02131-24

2024884c1

30 during an audit; amending s. 106.021, F.S.; conforming
31 a cross-reference; reenacting and amending s. 106.07,
32 F.S.; conforming a cross-reference; reenacting ss.
33 106.11(5)(d) and 717.1235, F.S., relating to
34 disposition of surplus funds for individuals who
35 withdrew, became unopposed, or were eliminated as
36 candidates and the disposition of funds in certain
37 dormant campaign accounts, respectively, to
38 incorporate the amendment made to s. 106.141, F.S., in
39 references thereto; providing an effective date.
40

41 Be It Enacted by the Legislature of the State of Florida:
42

43 Section 1. Present subsections (2) through (11) of section
44 106.141, Florida Statutes, are redesignated as subsections (3)
45 through (12), respectively, a new subsection (2) is added to
46 that section, and subsection (1), present subsection (5),
47 paragraph (b) of present subsection (6), present subsection (7),
48 paragraph (a) of present subsection (8), and present subsection
49 (9) are amended, to read:

50 106.141 Disposition of surplus funds by candidates.—

51 (1) Except as provided in subsection (7) ~~(6)~~, each
52 candidate who withdraws his or her candidacy, becomes an
53 unopposed candidate, or is eliminated as a candidate or elected
54 to office shall, within 90 days, dispose of the funds on deposit
55 in his or her campaign account and file a report reflecting the
56 disposition of all remaining funds. Such candidate may not
57 accept any contributions, nor may any person accept
58 contributions on behalf of such candidate, after the candidate

582-02131-24

2024884c1

59 withdraws his or her candidacy, becomes unopposed, or is
60 eliminated or elected. However, if a candidate receives a refund
61 check after all surplus funds have been disposed of, the check
62 may be endorsed by the candidate and the refund disposed of
63 under this section. An amended report must be filed showing the
64 refund and subsequent disposition.

65 (2) A candidate required to dispose of funds pursuant to
66 this section may, before such disposition, request that the
67 division audit the report required by subsection (1). The 90-day
68 period to dispose of funds and file the report is tolled until
69 10 business days after the division completes an audit conducted
70 pursuant to this subsection or s. 106.22(10). The candidate may
71 maintain the campaign account during such an audit for the sole
72 purpose of making expenditures to correct audit findings.

73 (6)~~(5)~~ A candidate elected to office or a candidate who
74 will be elected to office by virtue of his or her being
75 unopposed may, in addition to the disposition methods provided
76 in subsection (5) ~~(4)~~, transfer from the campaign account to an
77 office account any amount of the funds on deposit in such
78 campaign account up to:

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

82 (b) Ten thousand dollars, for a candidate for multicounty
83 office.

84 (c) Ten thousand dollars multiplied by the number of years
85 in the term of office for which elected, for a candidate for
86 legislative office.

87 (d) Five thousand dollars multiplied by the number of years

582-02131-24

2024884c1

88 in the term of office for which elected, for a candidate for
89 county office or for a candidate in any election conducted on
90 less than a countywide basis.

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

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

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

97
98 The office account established pursuant to this subsection shall
99 be separate from any personal or other account. Any funds so
100 transferred by a candidate shall be used only for legitimate
101 expenses in connection with the candidate's public office. Such
102 expenses may include travel expenses incurred by the officer or
103 a staff member; personal taxes payable on office account funds
104 by the candidate or elected public official; professional
105 services provided by a certified public accountant or attorney
106 for preparation of the elected public official's financial
107 disclosure filing pursuant to s. 112.3144 or s. 112.3145; costs
108 to prepare, print, produce, and mail holiday cards or
109 newsletters about the elected public official's public business
110 to constituents if such correspondence does not constitute a
111 political advertisement, independent expenditure, or
112 electioneering communication as provided in s. 106.011; fees or
113 dues to religious, civic, or charitable organizations of which
114 the elected public official is a member; items of modest value
115 such as flowers, greeting cards, or personal notes given as a
116 substitute for, or in association with, an elected public

582-02131-24

2024884c1

117 official's personal attendance at a constituent's special event
118 or family occasion, such as the birth of a child, graduation,
119 wedding, or funeral; personal expenses incurred by the elected
120 public official in connection with attending a constituent
121 meeting or event where public policy is discussed, if such
122 meetings or events are limited to no more than once a week; or
123 expenses incurred in the operation of the elected public
124 official's office, including the employment of additional staff.
125 The funds may be deposited in a savings account; however, all
126 deposits, withdrawals, and interest earned thereon shall be
127 reported at the appropriate reporting period. If a candidate is
128 reelected to office or elected to another office and has funds
129 remaining in his or her office account, he or she may transfer
130 surplus campaign funds to the office account. At no time may the
131 funds in the office account exceed the limitation imposed by
132 this subsection. Upon leaving public office, any person who has
133 funds in an office account pursuant to this subsection remaining
134 on deposit shall use such funds to pay for professional services
135 provided by a certified public accountant or attorney for
136 preparation of the elected public official's final financial
137 disclosure filing pursuant to s. 112.3144 or s. 112.3145, or
138 give such funds to a charitable organization that meets the
139 requirements of s. 501(c)(3) of the Internal Revenue Code or, in
140 the case of a state officer, to the state to be deposited in the
141 General Revenue Fund or, in the case of an officer of a
142 political subdivision, to the political subdivision to be
143 deposited in the general fund thereof.

144 (7)~~(6)~~

145 (b) A candidate elected to state office or a candidate who

582-02131-24

2024884c1

146 will be elected to state office by virtue of his or her being
147 unopposed after candidate qualifying ends, may retain up to
148 \$20,000 in his or her campaign account, or in an interest-
149 bearing account or certificate of deposit, for use in his or her
150 next campaign for the same office, in addition to the
151 disposition methods provided in subsections (5) ~~(4)~~ and (6) ~~(5)~~.
152 All requirements applicable to candidate campaign accounts under
153 this chapter, including disclosure requirements applicable to
154 candidate campaign accounts, limitations on expenditures, and
155 limitations on contributions, apply to any retained funds.

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

172 (9) (a) ~~(8) (a)~~ Any candidate required to dispose of campaign
173 funds pursuant to this section shall do so within the time
174 required by this section and, on or before the date by which

582-02131-24

2024884c1

175 such disposition is to have been made, shall file with the
176 officer with whom reports are required to be filed pursuant to
177 s. 106.07 a form prescribed by the Division of Elections
178 listing:

179 1. The name and address of each person or unit of
180 government to whom any of the funds were distributed and the
181 amounts thereof;

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

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

189 4. The amount of such funds retained pursuant to subsection
190 (7) ~~(6)~~, together with the name and address of the bank, savings
191 and loan association, or credit union in which the retained
192 funds are located.

193

194 Such report shall be signed by the candidate and the campaign
195 treasurer and certified as true and correct pursuant to s.
196 106.07.

197 (10) ~~(9)~~ Any candidate elected to office who transfers
198 surplus campaign funds into an office account pursuant to
199 subsection (6) ~~(5)~~ shall file a report on the 10th day following
200 the end of each calendar quarter until the account is closed.
201 Such reports shall contain the name and address of each person
202 to whom any disbursement of funds was made, together with the
203 amount thereof and the purpose therefor, and the name and

582-02131-24

2024884c1

204 address of any person from whom the elected candidate received
205 any refund or reimbursement and the amount thereof. Such reports
206 shall be on forms prescribed by the Division of Elections,
207 signed by the elected candidate, certified as true and correct,
208 and filed with the officer with whom campaign reports were filed
209 pursuant to s. 106.07(2).

210 Section 2. Subsections (6) and (10) of section 106.22,
211 Florida Statutes, are amended to read:

212 106.22 Duties of the Division of Elections.—It is the duty
213 of the Division of Elections to:

214 (6) Conduct ~~Make, from time to time,~~ audits and field
215 investigations with respect to ~~reports and statements filed~~
216 ~~under the provisions of this chapter and with respect to~~ alleged
217 failures to file any report or statement required under ~~the~~
218 ~~provisions of~~ this chapter. The division shall conduct a
219 postelection audit of the campaign accounts of all candidates
220 receiving contributions from the Election Campaign Financing
221 Trust Fund.

222 (10) After each general election cycle, conduct random
223 audits of ~~with respect to~~ reports and ~~statements~~ filed under
224 this chapter during that cycle and ~~with respect to~~ alleged
225 ~~failure to file any reports and statements required under this~~
226 ~~chapter.~~

227 (a) The audits must be of a random sample of 3 percent of:
228 1. All qualified candidates in each of the following office
229 groups:
230 a. State.
231 b. Judicial.
232 c. Multicounty.

582-02131-24

2024884c1

233 d. Special district.

234 2. All political committees.

235 3. All electioneering communication organizations.

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

238 (c) The division shall complete the sample selection
239 process no later than 30 days after each general election and
240 shall promptly notify the treasurer of each candidate, political
241 committee, and electioneering communication organization
242 selected.

243 (d) The treasurer of each candidate, political committee,
244 or electioneering communication organization shall maintain
245 valid contact information with the division until the division
246 determines that the candidate, political committee, or
247 electioneering communication organization has not been selected
248 for an audit, or, if selected, until completion of the audit.

249 (e) The selection of a candidate, a political committee, or
250 an electioneering communication organization for audit and the
251 process by which the candidate, political committee, or
252 electioneering communication organization was selected are
253 exempt from chapter 120.

254 (f) The 90-day period within which a candidate must dispose
255 of funds and file a report pursuant to s. 106.141(1) is tolled
256 until 10 business days after the division completes an audit
257 pursuant to this subsection. The candidate may maintain the
258 campaign account during such an audit for the sole purpose of
259 making expenditures to correct audit findings.

260 Section 3. Paragraph (a) of subsection (1) of section
261 106.021, Florida Statutes, is amended to read:

582-02131-24

2024884c1

262 106.021 Campaign treasurers; deputies; primary and
263 secondary depositories.—

264 (1) (a) Each candidate for nomination or election to office
265 and each political committee shall appoint a campaign treasurer.
266 Each person who seeks to qualify for nomination or election to,
267 or retention in, office shall appoint a campaign treasurer and
268 designate a primary campaign depository before qualifying for
269 office. Any person who seeks to qualify for election or
270 nomination to any office by means of the petitioning process
271 shall appoint a treasurer and designate a primary depository on
272 or before the date he or she obtains the petitions. At the same
273 time a candidate designates a campaign depository and appoints a
274 treasurer, the candidate shall also designate the office for
275 which he or she is a candidate. If the candidate is running for
276 an office that will be grouped on the ballot with two or more
277 similar offices to be filled at the same election, the candidate
278 must indicate for which group or district office he or she is
279 running. This subsection does not prohibit a candidate, at a
280 later date, from changing the designation of the office for
281 which he or she is a candidate. However, if a candidate changes
282 the designated office for which he or she is a candidate, the
283 candidate must notify all contributors in writing of the intent
284 to seek a different office and offer to return pro rata, upon
285 their request, those contributions given in support of the
286 original office sought. This notification shall be given within
287 15 days after the filing of the change of designation and shall
288 include a standard form developed by the Division of Elections
289 for requesting the return of contributions. The notice
290 requirement does not apply to any change in a numerical

582-02131-24

2024884c1

291 designation resulting solely from redistricting. If, within 30
292 days after being notified by the candidate of the intent to seek
293 a different office, the contributor notifies the candidate in
294 writing that the contributor wishes his or her contribution to
295 be returned, the candidate shall return the contribution, on a
296 pro rata basis, calculated as of the date the change of
297 designation is filed. Up to a maximum of the contribution limits
298 specified in s. 106.08, a candidate who runs for an office other
299 than the office originally designated may use any contribution
300 that a donor does not request be returned within the 30-day
301 period for the newly designated office, provided the candidate
302 disposes of any amount exceeding the contribution limit pursuant
303 to the options in s. 106.11(5)(b) and (c) or s. 106.141(5)(a)1.,
304 2., or 4. ~~s. 106.141(4)(a)1., 2., or 4.~~; notwithstanding, the
305 full amount of the contribution for the original office shall
306 count toward the contribution limits specified in s. 106.08 for
307 the newly designated office. A person may not accept any
308 contribution or make any expenditure with a view to bringing
309 about his or her nomination, election, or retention in public
310 office, or authorize another to accept such contributions or
311 make such expenditure on the person's behalf, unless such person
312 has appointed a campaign treasurer and designated a primary
313 campaign depository. A candidate for an office voted upon
314 statewide may appoint not more than 15 deputy campaign
315 treasurers, and any other candidate or political committee may
316 appoint not more than 3 deputy campaign treasurers. The names
317 and addresses of the campaign treasurer and deputy campaign
318 treasurers so appointed shall be filed with the officer before
319 whom such candidate is required to qualify or with whom such

582-02131-24

2024884c1

320 political committee is required to register pursuant to s.
321 106.03.

322 Section 4. Paragraph (b) of subsection (8) of section
323 106.07, Florida Statutes, is amended, and paragraph (c) of
324 subsection (1) of that section is reenacted, to read:

325 106.07 Reports; certification and filing.—

326 (1) Each campaign treasurer designated by a candidate or
327 political committee pursuant to s. 106.021 shall file regular
328 reports of all contributions received, and all expenditures
329 made, by or on behalf of such candidate or political committee.
330 Except for the third calendar quarter immediately preceding a
331 general election, reports must be filed on the 10th day
332 following the end of each calendar quarter from the time the
333 campaign treasurer is appointed, except that, if the 10th day
334 following the end of a calendar quarter occurs on a Saturday,
335 Sunday, or legal holiday, the report must be filed on the next
336 following day that is not a Saturday, Sunday, or legal holiday.
337 Quarterly reports must include all contributions received and
338 expenditures made during the calendar quarter which have not
339 otherwise been reported pursuant to this section.

340 (c) Following the last day of qualifying for office, any
341 unopposed candidate need only file a report within 90 days after
342 the date such candidate became unopposed. Such report shall
343 contain all previously unreported contributions and expenditures
344 as required by this section and shall reflect disposition of
345 funds as required by s. 106.141.

346 (8)

347 (b) Upon determining that a report is late, the filing
348 officer shall immediately notify the candidate or chair of the

582-02131-24

2024884c1

349 political committee as to the failure to file a report by the
350 designated due date and that a fine is being assessed for each
351 late day. The fine is \$50 per day for the first 3 days late and,
352 thereafter, \$500 per day for each late day, not to exceed 25
353 percent of the total receipts or expenditures, whichever is
354 greater, for the period covered by the late report. However, for
355 the reports immediately preceding each special primary election,
356 special election, primary election, and general election, the
357 fine is \$500 per day for each late day, not to exceed 25 percent
358 of the total receipts or expenditures, whichever is greater, for
359 the period covered by the late report. For reports required
360 under s. 106.141(9) ~~s. 106.141(8)~~, the fine is \$50 per day for
361 each late day, not to exceed 25 percent of the total receipts or
362 expenditures, whichever is greater, for the period covered by
363 the late report. Upon receipt of the report, the filing officer
364 shall determine the amount of the fine which is due and shall
365 notify the candidate or chair or registered agent of the
366 political committee. The filing officer shall determine the
367 amount of the fine due based upon the earliest of the following:

- 368 1. When the report is actually received by such officer.
- 369 2. When the report is postmarked.
- 370 3. When the certificate of mailing is dated.
- 371 4. When the receipt from an established courier company is
372 dated.
- 373 5. When the electronic receipt issued pursuant to s.
374 106.0705 or other electronic filing system authorized in this
375 section is dated.

376
377 Such fine shall be paid to the filing officer within 20 days

582-02131-24

2024884c1

378 after receipt of the notice of payment due, unless appeal is
379 made to the Florida Elections Commission pursuant to paragraph
380 (c). Notice is deemed complete upon proof of delivery of written
381 notice to the mailing or street address on record with the
382 filing officer. In the case of a candidate, such fine is not an
383 allowable campaign expenditure and shall be paid only from
384 personal funds of the candidate. An officer or member of a
385 political committee is not personally liable for such fine.

386 Section 5. For the purpose of incorporating the amendment
387 made by this act to section 106.141, Florida Statutes, in a
388 reference thereto, paragraph (d) of subsection (5) of section
389 106.11, Florida Statutes, is reenacted to read:

390 106.11 Expenses of and expenditures by candidates and
391 political committees.—Each candidate and each political
392 committee which designates a primary campaign depository
393 pursuant to s. 106.021(1) shall make expenditures from funds on
394 deposit in such primary campaign depository only in the
395 following manner, with the exception of expenditures made from
396 petty cash funds provided by s. 106.12:

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

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

401 Section 6. For the purpose of incorporating the amendment
402 made by this act to section 106.141, Florida Statutes, in a
403 reference thereto, section 717.1235, Florida Statutes, is
404 reenacted to read:

405 717.1235 Dormant campaign accounts; report of unclaimed
406 property.—Unclaimed funds reported in the name of a campaign for

582-02131-24

2024884c1

407 public office, for any campaign that must dispose of surplus
408 funds in its campaign account pursuant to s. 106.141, after
409 being reported to the department, shall be deposited with the
410 Chief Financial Officer to the credit of the State School Fund.
411 Section 7. This act shall take effect upon becoming a law.