

By Senator Martin

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1 A bill to be entitled
2 An act relating to elections; amending s. 99.061,
3 F.S.; revising the list of required items that must be
4 received by a specified officer for nomination and
5 election qualification; declaring that failure to file
6 a certain written statement as required disqualifies a
7 candidate; providing a method to challenge the
8 contents of certain forms and statements; providing
9 requirements for certain candidates to qualify for
10 office; requiring the Department of State to adopt
11 rules for certain procedures and a required form;
12 requiring the withdrawal of certain candidates in
13 specified circumstances; providing the exclusive
14 method of withdrawal; prohibiting a qualifying officer
15 from accepting certain items after a specified
16 deadline; declaring that any papers or items accepted
17 after the deadline are not valid and that the
18 candidate must be disqualified; providing a method for
19 challenging the qualification for certain candidates;
20 specifying procedures for bringing an action in
21 circuit court, the filing of responses, scheduling of
22 proceedings, and requirements for the supervisor of
23 elections; amending s. 101.69, F.S.; revising where
24 secure ballot intake stations may be placed and when
25 they may be accessed; amending s. 103.081, F.S.;
26 revising who is required to give approval and
27 permission to use names, abbreviations, and symbols of
28 political parties; authorizing a political party to
29 adopt certain rules; revising requirements for an

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30 exception; amending s. 103.121, F.S.; revising powers
31 and duties of executive committees; providing for
32 retroactive application; amending s. 106.1436, F.S.;
33 revising the definition of the term "voter guide";
34 revising who may represent that a voter guide is the
35 official publication of a political party; revising
36 required disclaimers on voter guides; prohibiting
37 voter guides from advocating for a candidate unless
38 certain conditions are met; providing that certain
39 voter guides are an in-kind contribution and should be
40 valued in a certain manner; providing an exception;
41 increasing the maximum fine amount for a certain
42 violation; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Present subsection (11) of section 99.061,
47 Florida Statutes, is redesignated as subsection (12), paragraph
48 (d) is added to subsection (7), a new subsection (11) and
49 subsection (13) are added to that section, and paragraph (a) of
50 subsection (7) of that section is amended, to read:

51 99.061 Method of qualifying for nomination or election to
52 federal, state, county, or district office.—

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

56 1. A properly executed check drawn upon the candidate's
57 campaign account for the office the candidate is qualifying for,
58 payable to the person or entity as prescribed by the filing

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59 officer in an amount not less than the fee required by s.
60 99.092, unless the candidate obtained the required number of
61 signatures on petitions pursuant to s. 99.095. The filing fee
62 for a special district candidate is not required to be drawn
63 upon the candidate's campaign account. If a candidate's check is
64 returned by the bank for any reason, the filing officer shall
65 immediately notify the candidate and the candidate shall have
66 until the end of qualifying to pay the fee with a cashier's
67 check purchased from funds of the campaign account. Failure to
68 pay the fee as provided in this subparagraph shall disqualify
69 the candidate.

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

76 3. If the office sought is partisan, the written statement
77 of political party affiliation required by s. 99.021(1) (b); or
78 if the candidate is running without party affiliation for a
79 partisan office, the written statement required by s.
80 99.021(1) (c). Failure to file an accurate written statement as
81 provided in this subparagraph shall disqualify the candidate.

82 4. The completed form for the appointment of campaign
83 treasurer and designation of campaign depository, as required by
84 s. 106.021. The contents of the form required under this
85 subparagraph may only be challenged by filing a complaint with
86 the Florida Elections Commission.

87 5. The full and public disclosure or statement of financial

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88 interests required by subsection (5). A public officer who has
89 filed the full and public disclosure or statement of financial
90 interests with the Commission on Ethics before qualifying for
91 office may file a copy of that disclosure or a verification or
92 receipt of electronic filing as provided in subsection (5) at
93 the time of qualifying. The contents of the disclosure or
94 statement required under this subparagraph may only be
95 challenged by filing a complaint with the Commission on Ethics.

96 (d) As a condition precedent to a candidate filing or
97 qualifying for another office, the candidate must withdraw from
98 the first office by filing a form with the qualifying officer.
99 The department shall adopt procedures to administer this
100 paragraph, including the development of the form. The form and
101 rules developed by the department are the exclusive method for
102 withdrawal from office under this paragraph, and any other
103 attempted method of withdrawal may not be considered valid.

104 (11) The qualifying officer may not accept any qualifying
105 papers or any items required under this section after the
106 qualifying period has ended. Any qualifying papers or items
107 accepted by the qualifying officer after the deadline are not
108 valid and the candidate must be disqualified.

109 (13) (a) A candidate may challenge the validity of his or
110 her opponent's qualification under this section. A political
111 party may challenge the validity of any candidate's
112 qualification under this section.

113 (b) A complainant may bring an action for declaratory and
114 injunctive relief with the circuit court in a county where the
115 alleged violation occurred within 20 days after the qualifying
116 period has ended.

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117 (c) The qualifying officer and any other opponent of the
118 complainant are indispensable party defendants.

119 (d) Within 10 days after the complaint has been served,
120 each candidate whose validity is being challenged must file a
121 response. If such candidate fails to file a timely response, the
122 court must disqualify the candidate and remove him or her from
123 the ballot, absent a showing of good cause for the delay.

124 (e) If applicable, the parties must file at least one
125 proposed scheduling order with the court within 10 days after
126 the complaint has been served.

127 (f) A matter brought under this subsection and any appeals
128 shall be considered on an expedited basis that will be least
129 disruptive to the upcoming election.

130 (g) Upon a final order that a candidate is disqualified and
131 exhaustion of appellate remedies, the supervisor of elections
132 shall remove the name of the disqualified candidate from the
133 ballot. If the ballots have already been printed, a notice must
134 be included with each vote-by-mail ballot and posted at each
135 early voting location and polling precinct that the candidate
136 has been disqualified and a vote for such candidate will not be
137 counted.

138 Section 2. Section 101.69, Florida Statutes, is amended to
139 read:

140 101.69 Voting in person; return of vote-by-mail ballot.—

141 (2) (a) The supervisor shall allow an elector who has
142 received a vote-by-mail ballot to physically return a voted
143 vote-by-mail ballot to the supervisor by placing the return mail
144 envelope containing his or her marked ballot in a secure ballot
145 intake station. Secure ballot intake stations shall be placed at

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146 the main office of the supervisor, at each permanent branch
147 office of the supervisor which meets the criteria set forth in
148 s. 101.657(1) (a) for branch offices used for early voting and
149 which is open for at least the minimum number of hours
150 prescribed by s. 98.015(4), and at each early voting site.
151 ~~Secure ballot intake stations may also be placed at any other~~
152 ~~site that would otherwise qualify as an early voting site under~~
153 ~~s. 101.657(1).~~ Secure ballot intake stations must be
154 geographically located so as to provide all voters in the county
155 with an equal opportunity to cast a ballot, insofar as is
156 practicable. Except for secure ballot intake stations at an
157 office of the supervisor, a secure ballot intake station may
158 only be used during the county's early voting hours of operation
159 and must be monitored in person by an employee of the
160 supervisor's office. A secure ballot intake station at an office
161 of the supervisor may only be made available during early voting
162 hours or during normal office hours and must be continuously
163 monitored in person by an employee of the supervisor's office
164 when the secure ballot intake station is accessible for deposit
165 of ballots.

166 Section 3. Section 103.081, Florida Statutes, is amended to
167 read:

168 103.081 Use of party name, abbreviation, or symbol;
169 political advertising.—

170 (1) No person shall use any ~~the~~ name, abbreviation, or
171 symbol of any political party, the name, abbreviation, or symbol
172 of which is filed with the Department of State, in political
173 advertising in newspapers, other publications, handbills, radio
174 or television, or any other form of advertising in connection

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175 with any political activities in support of a candidate of any
176 other party, unless such person shall first obtain the written
177 permission of the chair of the state executive committee of the
178 party the name, abbreviation, or symbol of which is to be used.

179 (2) No person or group of persons shall use any ~~the~~ name,
180 abbreviation, or symbol of any political party, the name,
181 abbreviation, or symbol of which is filed with the Department of
182 State, in connection with any club, group, association, or
183 organization of any kind unless approval and permission have
184 been given in writing by the chair of the state executive
185 committee of such party. A political party may provide by rule a
186 process for requesting approval and permission under this
187 subsection. This subsection shall not apply to county executive
188 committees of such parties and organizations which are chartered
189 by the state executive committee or national executive committee
190 of the party the name, abbreviation, or symbol of which is to be
191 used, or to organizations which at the time of the political
192 party filing the name with the Department of State have been
193 continuously using the name of any political party ~~which~~
194 ~~organizations have~~ and have continuously been in existence and
195 organized on a statewide basis for a period of 10 years.

196 (3) A political party may file with the Department of State
197 names of groups or committees associated with the political
198 party for which approval and permission have been given under
199 this section. ~~Such~~ Filed names of groups or committees
200 associated with the political party may not be used without
201 first obtaining the written permission of the chair of the state
202 executive committee of the party.

203 (4) Notwithstanding any other provision of law to the

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204 contrary, an affiliated party committee shall be entitled to use
205 any ~~the~~ name, abbreviation, or symbol of the political party of
206 its leader as defined in s. 103.092.

207 Section 4. Paragraph (a) of subsection (1) of section
208 103.121, Florida Statutes, is amended to read:

209 103.121 Powers and duties of executive committees.—

210 (1)(a) Each state and county executive committee of a
211 political party shall have the power and duty:

212 1. To adopt a constitution by two-thirds vote of the full
213 committee.

214 2. To adopt such bylaws and rules as it may deem necessary
215 by majority vote of the full committee.

216 3. To conduct its meetings according to generally accepted
217 parliamentary practice.

218 4. To make party nomination when required by law.

219 5. To conduct campaigns for party nominees.

220 6. To raise and expend party funds. Such funds may not be
221 expended or committed to be expended except after written
222 authorization by the chair of the state or county executive
223 committee.

224 7. To sue and be sued and appear and defend in all actions
225 and proceedings in its party name to the same extent as a
226 natural person.

227 8. To make contracts and guaranties, incur liabilities,
228 borrow money at such rates of interest as the party may
229 determine, issue its notes, bonds, and other obligations, and
230 secure its obligations by mortgage and pledge of all or any of
231 its property, franchises, or income.

232 9. To purchase, take, receive, lease, take by gift, devise,

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233 or bequest, or otherwise acquire, own, hold improve, use, or
 234 otherwise deal in and with real or personal property, or any
 235 interest therein, wherever situated.

236 10. To acquire, enjoy, use, and dispose of patents,
 237 copyrights, and trademarks and any licenses and other rights or
 238 interest thereunder or therein.

239 11. To sell, convey, mortgage, pledge, lease, exchange,
 240 transfer, or otherwise dispose of all or any part of its
 241 property and assets.

242 12. To have and exercise all powers necessary or convenient
 243 to effect any and all the purposes for which the party is
 244 organized.

245 Section 5. The amendments made by this act to s. 103.121,
 246 Florida Statutes, apply to all proceedings pending on or before,
 247 or commenced after, the effective date of this act.

248 Section 6. Section 106.1436, Florida Statutes, is amended
 249 to read:

250 106.1436 Voter guide; disclaimers; violations.—

251 (1) As used in this section, the term "voter guide" means
 252 ~~direct mail that is either~~ an electioneering communication, ~~or~~ a
 253 political advertisement, or a miscellaneous advertisement of a
 254 political nature distributed ~~sent~~ for the purpose of supporting
 255 or opposing two or more ~~advocating for or endorsing particular~~
 256 issues or candidates by recommending or not recommending
 257 specific electoral choices to the voter or by indicating issue
 258 ~~or~~ candidate selections on an unofficial ballot. The term does
 259 not include communications ~~apply to direct mail or publications~~
 260 made by governmental entities or government officials in their
 261 official capacity or to any political advertisement using an

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262 expenditure described in s. 106.021(3)(d).

263 (2) A person other than a political party or affiliated
 264 party committee may not, directly or indirectly, represent that
 265 a voter guide is an official publication of a political party
 266 unless such person is given written permission by the chair of
 267 the state executive committee of the political party and the
 268 voter guide is approved by the political party pursuant to s.
 269 103.081.

270 (3) In addition to any other disclaimers required by law, a
 271 voter guide distributed ~~circulated~~ before, or on the day of, an
 272 election must, ~~in bold font with a font size of at least 12~~
 273 ~~points,~~ prominently:

274 (a) Display the following disclaimer ~~at the top of the~~
 275 ~~first page of the voter guide:~~

276 1. If the voter guide is not approved by a political party
 277 or affiliated party committee: "Voter guide approved by ... (Name
 278 of person paying for communication)...., not affiliated with any
 279 political party." ~~an electioneering communication, the~~
 280 ~~disclaimer required under s. 106.1439; or~~

281 2. If the voter guide is approved by a political party or
 282 affiliated party committee, the following disclaimer: "Voter
 283 guide approved by ... (Name of the political party of affiliated
 284 party committee)...." ~~a political advertisement, the disclaimer~~
 285 ~~required under s. 106.143.~~

286 (b) The voter guide ~~Be marked "Voter Guide" with such text~~
 287 ~~appearing immediately below the disclaimer~~ must: ~~required in~~
 288 ~~paragraph (a).~~

289 1. For a printed communication, appear at the top of the
 290 first page of the communication in boldface type of at least 12

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291 points and with a reasonable degree of color contrast between
292 the background and the disclaimer.

293 2. For a text message, be included with the first text
294 message of the day. The disclaimer may be in the form of a
295 working hyperlink or a uniform resource locator to a website
296 containing the disclaimer. Such website must remain online and
297 available to the public for at least 30 days after the election
298 for which the website was created.

299 3. For a television or video communication, be clearly
300 readable, appear at the beginning or end of the communication
301 for a period of at least 4 seconds, occupy at least 4 percent of
302 the vertical picture height, and be accompanied by an audio
303 statement of the disclaimer spoken in a clearly audible and
304 intelligible manner.

305 4. For an Internet public communication that includes text
306 or graphic components, be viewable without the user taking any
307 action and be large enough to be clearly readable.

308 5. For a telephone call, be read aloud at the beginning or
309 end of the telephone call in a clearly audible manner.

310 6. For any audio component of a communication, appear at
311 the beginning or end of the of the audio portion of the
312 communication, be at least 3 seconds in length, and be read
313 aloud in a clearly audible and intelligible manner.

314 7. For a graphic communication, appear at the top of the
315 graphic, be large enough to be clearly readable, and be at least
316 4 percent of the vertical height of the communication.

317 (4) Any voter guide which expressly advocates for a
318 candidate requires prior written authorization by such
319 candidate. A copy of such written authorization must be placed

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320 on file with the qualifying officer by the candidate before the
321 voter guide is distributed. A voter guide under this section is
322 an in-kind contribution to the candidate under s. 106.055, and
323 should be valued in consideration of the percentage of the voter
324 guide devoted to the candidate. This subsection does not apply
325 to a voter guide paid for by an independent expenditure.

326 (5)-(4)(a) In addition to any other penalties provided by
327 law, a person who fails to comply with this section commits a
328 misdemeanor of the first degree, punishable as provided in s.
329 775.082 or by a fine of not less than \$25 for each individual
330 voter guide distributed.

331 (b) Any fine imposed pursuant to paragraph (a) may not
332 exceed \$10,000 ~~\$2,500~~ in the aggregate in any calendar month.

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