

## Committee Substitute for Senate Bill Nos. 1842, 1124, and 498

An act relating to elections; amending s. 106.011, F.S.; redefining the term “political committee”; amending s. 106.07, F.S.; changing the fine for certain late-filed reports; amending s. 106.08, F.S.; clarifying requirements for soliciting and accepting charitable contributions; reenacting a prohibition against indirect campaign contributions; amending s. 106.11, F.S.; authorizing the use of debit cards for campaigns; providing requirements; amending s. 106.12, F.S.; increasing the amount for petty cash expenditures; amending s. 106.141, F.S.; requiring the filing officer to notify candidates before the date the final report is due; increasing the amount of surplus funds that certain successful candidates may contribute to an office account; amending s. 106.15, F.S.; expanding the prohibition on the use of state employees for campaign purposes during working hours to county, municipal, and district employees; amending s. 106.19, F.S.; conforming a statutory cross-reference; providing for severability; providing an effective date.

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

Section 1. Subsection (1) of section 106.011, Florida Statutes, is amended to read:

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

(1)(a) “Political committee” means:

1. A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

a. Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, or political party;

b. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;

c. Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or

d. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, or political party, the primary or incidental purpose of which is to support or oppose any candidate, issue, or political party, which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$500; “political committee” also means

2. The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.

(b) Notwithstanding paragraph (a), the following entities are not considered political committees for purposes of this chapter:

1. Organizations which are certified by the Department of State as committees of continuous existence pursuant to s. 106.04, national political parties, and the state and county executive committees of political parties regulated by chapter 103 ~~shall not be considered political committees for the purposes of this chapter.~~

2. Corporations regulated by chapter 607 or chapter 617 or other business entities formed for purposes other than to support or oppose issues or candidates, ~~are not political committees~~ if their political activities are limited to contributions to candidates, political parties, or political committees or expenditures in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities.

Section 2. Paragraph (b) of subsection (8) of section 106.07, Florida Statutes, is amended to read:

106.07 Reports; certification and filing.—

(8)

(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chair of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever if greater, for the period covered by the late report. For reports required under s. 106.141(7), the fine is \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chair. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Com-

mission pursuant to paragraph (c). In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from personal funds of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

Section 3. Subsection (5) of section 106.08, Florida Statutes, is reenacted and amended to read:

106.08 Contributions; limitations on.—

(5)(a) A person may not make any contribution through or in the name of another, directly or indirectly, in any election.

(b) Candidates, political committees, and political parties may not solicit contributions from ~~or make contributions to~~ any religious, charitable, civic, or other causes or organizations established primarily for the public good.

(c) Candidates, political committees, and political parties may not make contributions, in exchange for political support, to any religious, charitable, civic, or other cause or organization established primarily for the public good. However, It is not a violation of this paragraph subsection for:

1. A candidate, political committee, or political party executive committee to make gifts of money in lieu of flowers in memory of a deceased person; ~~or for~~

2. A candidate to continue membership in, or make regular donations from personal or business funds to, religious, political party, civic, or charitable groups of which the candidate is a member or to which the candidate has been a regular donor for more than 6 months; ~~or-~~

3. A candidate ~~to may~~ purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, or charitable groups.

Section 4. Section 106.11, Florida Statutes, is amended to read:

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

(1)(a) The campaign treasurer or deputy campaign treasurer of a candidate or political committee shall make expenditures from funds on deposit in the primary campaign depository only by means of a bank check drawn upon the campaign account of the candidate or political committee. The campaign account shall be separate from any personal or other account and shall be used only for the purpose of depositing contributions and making expenditures for the candidate or political committee.

(b) The checks for such account shall contain, as a minimum, the following information:

- 1.(a) The statement “Campaign Account of ...(name of candidate or political committee)....”
- 2.(b) The account number and the name of the bank.
- 3.(e) The exact amount of the expenditure.
- 4.(d) The signature of the campaign treasurer or deputy treasurer.
- 5.(e) The exact purpose for which the expenditure is authorized.
- 6.(f) The name of the payee.

(2)(a) For purposes of this section, debit cards are considered bank checks, if:

1. Debit cards are obtained from the same bank that has been designated as the candidate’s or political committee’s primary campaign depository.

2. Debit cards are issued in the name of the treasurer, deputy treasurer, or authorized user and state “Campaign Account of (name of candidate or political committee).”

3. No more than three debit cards are requested and issued.

4. Before a debit card is used, a list of all persons authorized to use the card is filed with the division.

5. All debit cards issued to a candidate’s campaign or a political committee expire no later than midnight of the last day of the month of the general election.

6. The person using the debit card does not receive cash as part of, or independent of, any transaction for goods or services.

7. All receipts for debit card transactions contain:

a. The last four digits of the debit card number.

b. The exact amount of the expenditure.

c. The name of the payee.

d. The signature of the campaign treasurer, deputy treasurer, or authorized user.

e. The exact purpose for which the expenditure is authorized.

Any information required by this subparagraph but not included on the debit card transaction receipt may be handwritten on, or attached to, the receipt by the authorized user before submission to the treasurer.

(b) Debit cards are not subject to the requirements of paragraph (1)(b).

~~(3)~~(2) The campaign treasurer, ~~or~~ deputy treasurer, or authorized user who signs the check shall be responsible for the completeness and accuracy of the information on such check and for insuring that such expenditure is an authorized expenditure.

~~(4)~~(3) No candidate, campaign manager, treasurer, deputy treasurer, or political committee or any officer or agent thereof, or any person acting on behalf of any of the foregoing, shall authorize any expenses, nor shall any campaign treasurer or deputy treasurer sign a check drawn on the primary campaign account for any purpose, unless there are sufficient funds on deposit in the primary depository account of the candidate or political committee to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid. However, an expense may be incurred for the purchase of goods or services if there are sufficient funds on deposit in the primary depository account to pay the full amount of the incurred expense, to honor all checks drawn on such account, which checks are outstanding, and to meet all other expenses previously authorized but not yet paid, provided that payment for such goods or services is made upon final delivery and acceptance of the goods or services; and an expenditure from petty cash pursuant to the provisions of s. 106.12 may be authorized, if there is a sufficient amount of money in the petty cash fund to pay for such expenditure. Payment for credit card purchases shall be made pursuant to s. 106.125. Any expense incurred or authorized in excess of such funds on deposit shall, in addition to other penalties provided by law, constitute a violation of this chapter.

~~(5)~~(4) A candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office may expend funds from the campaign account to:

(a) Purchase “thank you” advertising for up to 75 days after he or she withdraws, becomes unopposed, or is eliminated or elected.

(b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected.

(c) Pay for expenditures necessary to close down the campaign office and to prepare final campaign reports.

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

Section 5. Subsection (3) of section 106.12, Florida Statutes, is amended to read:

106.12 Petty cash funds allowed.—

(3) The petty cash fund so provided shall be spent only in amounts less than ~~\$100~~ \$30 and only for office supplies, transportation expenses, and other necessities. Petty cash shall not be used for the purchase of time, space, or services from communications media as defined in s. 106.011(13).

Section 6. Subsections (5) and (7) of section 106.141, Florida Statutes, are amended to read:

## 106.141 Disposition of surplus funds by candidates.—

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

(a) ~~Twenty Ten~~ Twenty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.

(b) Five thousand dollars, for a candidate for multicounty office.

(c) ~~Five Two~~ Five thousand ~~five hundred~~ dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.

(d) ~~Two One~~ Two thousand ~~one~~ five hundred dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.

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

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

(g) One thousand five hundred dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member, personal taxes payable on office account funds by the candidate or elected public official, or expenses incurred in the operation of his or her office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall give such funds to a charitable organization or organizations which meet the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

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

1.(a) The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;

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

3.(c) The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank in which the office account is located.

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

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late termination reports.

Section 7. Subsection (3) of section 106.15, Florida Statutes, is amended to read:

106.15 Certain acts prohibited.—

(3) ~~A No candidate may not shall, in the furtherance of his or her candidacy for nomination or election to public office in any election, use the services of any state, county, municipal, or district officer or employee of the state during working hours.~~

Section 8. Subsection (1) of section 106.19, Florida Statutes, is amended to read:

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

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

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

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

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

(d) Makes or authorizes any expenditure in violation of s. 106.11(4) ~~s. 106.11(3)~~ or any other expenditure prohibited by this chapter;

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

Section 9. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 10. This act shall take effect July 1, 2002.

Approved by the Governor April 29, 2002.

Filed in Office Secretary of State April 29, 2002.