

1                   A bill to be entitled  
2           An act relating to elections; amending s. 97.012, F.S.;  
3           expanding the list of responsibilities of the Secretary of  
4           State when acting in his or her capacity as chief election  
5           officer; providing that a supervisor of election's failure  
6           to comply with direction or opinions provided by the  
7           Secretary of State may subject the supervisor to certain  
8           penalties; amending s. 99.061, F.S.; revising the  
9           timeframe for a candidate to meet certain qualification  
10          requirements; requiring that a candidate file certain  
11          original documentation when qualifying for office;  
12          amending s. 100.111, F.S.; providing notification  
13          requirements and procedures for filling a vacancy in  
14          nomination for certain offices; deleting the definition of  
15          the term "district political party executive committee";  
16          providing that a vacancy in nomination is not created if a  
17          nominee did not properly qualify or does not meet the  
18          necessary qualifications to hold the office sought;  
19          amending s. 100.141, F.S.; revising notification and  
20          publication requirements for special elections; amending  
21          s. 101.131, F.S.; revising procedures for the designation  
22          of poll watchers; requiring that the Division of Elections  
23          prescribe a form for the designation of poll watchers;  
24          providing conditions under which poll watchers are  
25          authorized to enter polling areas and watch polls;  
26          requiring that a supervisor of elections provide  
27          identification to poll watchers by a specified period  
28          before early voting begins; requiring that poll watchers

29 display such identification while in a polling place;  
 30 amending s. 102.031, F.S.; prohibiting solicitation of  
 31 voters standing in line to enter any polling place or  
 32 early voting site; expanding the definitions of the terms  
 33 "solicit" or "solicitation"; amending s. 103.141, F.S.;  
 34 deleting language providing for the removal of certain  
 35 county executive committee members pursuant to a separate  
 36 provision of law; amending s. 106.07, F.S.; conforming a  
 37 cross-reference to changes made by the act; amending s.  
 38 106.0703, F.S.; conforming a cross-reference to changes  
 39 made by the act; revising the reporting requirement for  
 40 electioneering communications organizations; amending s.  
 41 106.265, F.S.; authorizing the imposition of civil  
 42 penalties by an administrative law judge or the Florida  
 43 Election Commission, whichever is applicable, for certain  
 44 violations of chapter 106 or chapter 104; adding  
 45 electioneering communications organizations to those  
 46 entities subject to civil penalty provisions; repealing s.  
 47 103.161, F.S., relating to the removal or suspension of  
 48 officers or members of a state executive committee or  
 49 county executive committee; providing an effective date.

50  
 51 Be It Enacted by the Legislature of the State of Florida:

52  
 53 Section 1. Subsection (16) is added to section 97.012,  
 54 Florida Statutes, to read:

55 97.012 Secretary of State as chief election officer.—The  
 56 Secretary of State is the chief election officer of the state,

57 and it is his or her responsibility to:

58 (16) Provide direction and opinions to the supervisors of  
 59 elections on the performance of their official duties with  
 60 respect to the Florida Election Code or rules adopted by the  
 61 Department of State. A supervisor's failure to comply with the  
 62 direction or an opinion provided by the Secretary of State may  
 63 subject the supervisor to the provisions of s. 104.051.

64 Section 2. Subsection (7) of section 99.061, Florida  
 65 Statutes, is amended to read:

66 99.061 Method of qualifying for nomination or election to  
 67 federal, state, county, or district office.—

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

71 1. A properly executed check drawn upon the candidate's  
 72 campaign account in an amount not less than the fee required by  
 73 s. 99.092 or, in lieu thereof, as applicable, the copy of the  
 74 notice of obtaining ballot position pursuant to s. 99.095. The  
 75 filing fee for a special district candidate is not required to  
 76 be drawn upon the candidate's campaign account. If a candidate's  
 77 check is returned by the bank for any reason, the filing officer  
 78 shall immediately notify the candidate and the candidate shall  
 79 have until, the end of qualifying ~~notwithstanding, have 48 hours~~  
 80 ~~from the time such notification is received, excluding~~  
 81 ~~Saturdays, Sundays, and legal holidays,~~ to pay the fee with a  
 82 cashier's check purchased from funds of the campaign account.  
 83 Failure to pay the fee as provided in this subparagraph shall  
 84 disqualify the candidate.

85           2. The candidate's oath required by s. 99.021, which must  
86 contain the name of the candidate as it is to appear on the  
87 ballot; the office sought, including the district or group  
88 number if applicable; and the signature of the candidate, duly  
89 acknowledged.

90           3. The loyalty oath required by s. 876.05, signed by the  
91 candidate and duly acknowledged.

92           4. If the office sought is partisan, the written statement  
93 of political party affiliation required by s. 99.021(1)(b).

94           5. The completed form for the appointment of campaign  
95 treasurer and designation of campaign depository, as required by  
96 s. 106.021.

97           6. An original copy of the full and public disclosure or  
98 statement of financial interests required by subsection (5). A  
99 public officer who has filed the full and public disclosure or  
100 statement of financial interests with the Commission on Ethics  
101 or the supervisor of elections prior to qualifying for office  
102 may file a copy of that disclosure at the time of qualifying.

103           (b) If the filing officer receives qualifying papers that  
104 do not include all items as required by paragraph (a) prior to  
105 the last day of qualifying, the filing officer shall make a  
106 reasonable effort to notify the candidate of the missing or  
107 incomplete items and shall inform the candidate that all  
108 required items must be received by the close of qualifying. A  
109 candidate's name as it is to appear on the ballot may not be  
110 changed after the end of qualifying.

111           Section 3. Subsection (4) of section 100.111, Florida  
112 Statutes, is amended, present subsection (5) is renumbered as

113 subsection (6), a new subsection (5) is added to that section,  
 114 to read:

115 100.111 Filling vacancy.—

116 (4) (a) In the event that death, resignation, withdrawal,  
 117 removal, or any other cause or event should cause a party to  
 118 have a vacancy in nomination which leaves no candidate for an  
 119 office from such party, the Department of State shall notify the  
 120 chair of the ~~appropriate state, district, or county~~ political  
 121 party executive committee of such party; and:

122 1. If the vacancy in nomination is for a statewide office,  
 123 the state party chair shall, within 5 days, the chair shall call  
 124 a meeting of his or her executive board committee to consider  
 125 designation of a nominee to fill the vacancy.

126 2. If the vacancy in nomination is for a legislative or  
 127 multicounty office, the state party chair shall notify the  
 128 appropriate county chair or chairs and, within 5 days, the  
 129 appropriate county chairs shall call a meeting of the members of  
 130 the executive committee in the affected county or counties to  
 131 consider designation of a nominee to fill the vacancy.

132 3. If the vacancy in nomination is for a county office,  
 133 the state party chair shall notify the appropriate county chair  
 134 and, within 5 days, the appropriate county chair shall call a  
 135 meeting of his or her executive committee to consider  
 136 designation of a nominee to fill the vacancy.

137  
 138 The name of any person so designated shall be submitted to the  
 139 Department of State within 7 days after notice to the chair in  
 140 order that the person designated may have his or her name on the

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141 ballot of the ensuing general election. If the name of the new  
142 nominee is submitted after the certification of results of the  
143 preceding primary election, however, the ballots shall not be  
144 changed and the former party nominee's name will appear on the  
145 ballot. Any ballots cast for the former party nominee will be  
146 counted for the person designated by the political party to  
147 replace the former party nominee. If there is no opposition to  
148 the party nominee, the person designated by the political party  
149 to replace the former party nominee will be elected to office at  
150 the general election. ~~For purposes of this paragraph, the term~~  
151 ~~"district political party executive committee" means the members~~  
152 ~~of the state executive committee of a political party from those~~  
153 ~~counties comprising the area involving a district office.~~

154 (b) When, under the circumstances set forth in the  
155 preceding paragraph, vacancies in nomination are required to be  
156 filled by committee nominations, such vacancies shall be filled  
157 by party rule. In any instance in which a nominee is selected by  
158 a committee to fill a vacancy in nomination, such nominee shall  
159 pay the same filing fee and take the same oath as the nominee  
160 would have taken had he or she regularly qualified for election  
161 to such office.

162 (c) Any person who, at the close of qualifying as  
163 prescribed in ss. 99.061 and 105.031, was qualified for  
164 nomination or election to or retention in a public office to be  
165 filled at the ensuing general election is prohibited from  
166 qualifying as a candidate to fill a vacancy in nomination for  
167 any other office to be filled at that general election, even if  
168 such person has withdrawn or been eliminated as a candidate for

169 the original office sought. However, this paragraph does not  
 170 apply to a candidate for the office of Lieutenant Governor who  
 171 applies to fill a vacancy in nomination for the office of  
 172 Governor on the same ticket or to a person who has withdrawn or  
 173 been eliminated as a candidate and who is subsequently  
 174 designated as a candidate for Lieutenant Governor under s.  
 175 99.063.

176 (5) A vacancy in nomination is not created if it is  
 177 determined that a nominee did not properly qualify or does not  
 178 meet the necessary qualifications to hold the office for which  
 179 he or she sought to qualify.

180 Section 4. Subsection (3) of section 100.141, Florida  
 181 Statutes, is amended to read:

182 100.141 Notice of special election to fill any vacancy in  
 183 office.—

184 (3) The department shall deliver a copy of such notice to  
 185 the supervisor of elections of each county in which the special  
 186 election is to be held. The supervisor shall have the notice  
 187 published on the supervisor's website and post at least five  
 188 copies of the notice in conspicuous places in the county ~~two~~  
 189 ~~times in a newspaper of general circulation in the county at~~  
 190 ~~least 10 days before~~ before ~~prior to~~ the first day set for qualifying  
 191 for office. ~~If such a newspaper is not published within the~~  
 192 ~~period set forth, the supervisor shall post at least five copies~~  
 193 ~~of the notice in conspicuous places in the county not less than~~  
 194 ~~10 days prior to the first date set for qualifying.~~

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195 Section 5. Subsection (2) of section 101.131, Florida  
196 Statutes, is amended, and subsections (4) and (5) are added to  
197 that section, to read:

198 101.131 Watchers at polls.—

199 (2) Each party, each political committee, and each  
200 candidate requesting to have poll watchers shall designate, in  
201 writing to the supervisors of elections, on a form prescribed by  
202 the division, before ~~prior to~~ noon of the second Tuesday  
203 preceding the election poll watchers for each polling room on  
204 election day. Designations of poll watchers for early voting  
205 areas shall be submitted in writing to the supervisor of  
206 elections, on a form prescribed by the division, before noon at  
207 least 14 days before early voting begins. The poll watchers for  
208 ~~each~~ polling rooms ~~room~~ shall be approved by the supervisor of  
209 elections on or before the Tuesday before the election. Poll  
210 watchers for early voting areas shall be approved by the  
211 supervisor of elections no later than 7 days before early voting  
212 begins. The supervisor shall furnish to each election board a  
213 list of the poll watchers designated and approved for such  
214 polling rooms ~~room~~ or early voting areas ~~area~~. Designation of  
215 poll watchers shall be made by the chair of the county executive  
216 committee of a political party, the chair of a political  
217 committee, or the candidate requesting to have poll watchers.

218 (4) All poll watchers shall be allowed to enter and watch  
219 polls in all polling rooms and early voting areas within the  
220 county in which they have been designated if the number of poll  
221 watchers at any particular polling place does not exceed the  
222 number provided in this section.



223           (5) The supervisor of elections shall provide to each  
 224 designated poll watcher, no later than 7 days before early  
 225 voting begins, a poll watcher identification badge that  
 226 identifies the poll watcher by name. Each poll watcher shall  
 227 wear his or her identification badge while in the polling room  
 228 or early voting area.

229           Section 6. Paragraphs (a) and (b) of subsection (4) of  
 230 section 102.031, Florida Statutes, are amended to read:

231           102.031 Maintenance of good order at polls; authorities;  
 232 persons allowed in polling rooms and early voting areas;  
 233 unlawful solicitation of voters.—

234           (4) (a) No person, political committee, committee of  
 235 continuous existence, or other group or organization may solicit  
 236 voters who are inside a ~~the~~ polling place or within 100 feet of  
 237 the entrance to any polling place; who are inside a, ~~or~~ polling  
 238 room where the polling place is also a polling room; who are  
 239 inside an, ~~or~~ early voting site; or who are standing in line to  
 240 enter any polling place or early voting site. Before the opening  
 241 of the polling place or early voting site, the clerk or  
 242 supervisor shall designate the no-solicitation zone and mark the  
 243 boundaries.

244           (b) For the purpose of this subsection, the terms  
 245 "solicit" or "solicitation" shall include, but not be limited  
 246 to, seeking or attempting to seek any vote, fact, opinion, or  
 247 contribution; distributing or attempting to distribute any  
 248 political or campaign material, leaflet, or handout; conducting  
 249 a poll except as specified in this paragraph; seeking or  
 250 attempting to seek a signature on any petition; offering voting

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251 or legal advice; and selling or attempting to sell any item,  
 252 whether in person or by means of audio or visual equipment. The  
 253 terms "solicit" or "solicitation" shall not be construed to  
 254 prohibit exit polling.

255 Section 7. Section 103.141, Florida Statutes, is amended  
 256 to read:

257 103.141 Removal of county executive committee member for  
 258 violation of oath.—

259 ~~(1) If~~ Where the county executive committee by at least a  
 260 two-thirds majority vote of the members of the committee,  
 261 attending a meeting held after due notice has been given and at  
 262 which meeting a quorum is present, determines an incumbent  
 263 county executive committee member is to be guilty of an offense  
 264 involving a violation of the member's oath of office, the said  
 265 member ~~so violating his or her oath~~ shall be removed from office  
 266 and the office shall be deemed vacant. ~~Provided,~~ However, if the  
 267 county committee wrongfully removes a county committee member  
 268 and the committee member ~~so~~ wrongfully removed files suit in the  
 269 circuit court alleging his or her removal was wrongful and wins  
 270 the said suit, the committee member shall be restored to office  
 271 and the county committee shall pay the costs incurred by the  
 272 wrongfully removed committee member in bringing the suit,  
 273 including reasonable attorney's fees.

274 ~~(2) Any officer, county committeeman, county~~  
 275 ~~committeewoman, precinct committeeman, precinct committeewoman,~~  
 276 ~~or member of a county executive committee may be removed from~~  
 277 ~~office pursuant to s. 103.161.~~

278 Section 8. Paragraph (c) of subsection (8) of section  
 279 106.07, Florida Statutes, is amended to read:

280 106.07 Reports; certification and filing.—

281 (8)

282 (c) Any candidate or chair of a political committee may  
 283 appeal or dispute the fine, based upon, but not limited to,  
 284 unusual circumstances surrounding the failure to file on the  
 285 designated due date, and may request and shall be entitled to a  
 286 hearing before the Florida Elections Commission, which shall  
 287 have the authority to waive the fine in whole or in part. The  
 288 Florida Elections Commission must consider the mitigating and  
 289 aggravating circumstances contained in s. 106.265~~(1)~~ when  
 290 determining the amount of a fine, if any, to be waived. Any such  
 291 request shall be made within 20 days after receipt of the notice  
 292 of payment due. In such case, the candidate or chair of the  
 293 political committee shall, within the 20-day period, notify the  
 294 filing officer in writing of his or her intention to bring the  
 295 matter before the commission.

296 Section 9. Paragraph (c) of subsection (7) and subsection  
 297 (8) of section 106.0703, Florida Statutes, are amended to read:

298 106.0703 Electioneering communications organizations;  
 299 reporting requirements; certification and filing; penalties.—

300 (7)

301 (c) The treasurer of an electioneering communications  
 302 organization may appeal or dispute the fine, based upon, but not  
 303 limited to, unusual circumstances surrounding the failure to  
 304 file on the designated due date, and may request and shall be  
 305 entitled to a hearing before the Florida Elections Commission,

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306 | which shall have the authority to waive the fine in whole or in  
 307 | part. The Florida Elections Commission must consider the  
 308 | mitigating and aggravating circumstances contained in s.  
 309 | 106.265~~(1)~~ when determining the amount of a fine, if any, to be  
 310 | waived. Any such request shall be made within 20 days after  
 311 | receipt of the notice of payment due. In such case, the  
 312 | treasurer of the electioneering communications organization  
 313 | shall, within the 20-day period, notify the filing officer in  
 314 | writing of his or her intention to bring the matter before the  
 315 | commission.

316 |         (8) An electioneering communications organization shall,  
 317 | within 2 days after receiving its initial password or secure  
 318 | sign-on from the Department of State allowing confidential  
 319 | access to the department's electronic campaign finance filing  
 320 | system, electronically file ~~the periodic reports that would have~~  
 321 | ~~been required pursuant to this section for reportable activities~~  
 322 | ~~that occurred since the date of the last general election.~~

323 |         Section 10. Section 106.265, Florida Statutes, is amended  
 324 | to read:

325 |         106.265 Civil penalties.—

326 |         (1) The commission, or in cases referred to the Division  
 327 | of Administrative Hearings pursuant to s. 106.25(5), the  
 328 | administrative law judge, is authorized upon the finding of a  
 329 | violation of this chapter or chapter 104 to impose civil  
 330 | penalties in the form of fines not to exceed \$1,000 per count  
 331 | or, if applicable, to impose a civil penalty as provided in s.  
 332 | 106.19.

333 |         (2) In determining the amount of such civil penalties, the

334 | commission or the administrative law judge shall consider, among  
 335 | other mitigating and aggravating circumstances:

- 336 |       (a) The gravity of the act or omission;
- 337 |       (b) Any previous history of similar acts or omissions;
- 338 |       (c) The appropriateness of such penalty to the financial  
 339 | resources of the person, political committee, committee of  
 340 | continuous existence, electioneering communications  
 341 | organization, or political party; and

342 |       (d) Whether the person, political committee, committee of  
 343 | continuous existence, electioneering communications  
 344 | organization, or political party has shown good faith in  
 345 | attempting to comply with the provisions of this chapter or  
 346 | chapter 104.

347 |       ~~(3)~~~~(2)~~ If any person, political committee, committee of  
 348 | continuous existence, electioneering communications  
 349 | organization, or political party fails or refuses to pay to the  
 350 | commission any civil penalties assessed pursuant to the  
 351 | provisions of this section, the commission shall be responsible  
 352 | for collecting the civil penalties resulting from such action.

353 |       ~~(4)~~~~(3)~~ Any civil penalty collected pursuant to the  
 354 | provisions of this section shall be deposited into the Election  
 355 | Campaign Financing Trust Fund.

356 |       ~~(5)~~~~(4)~~ Notwithstanding any other provisions of this  
 357 | chapter, any fine assessed pursuant to the provisions of this  
 358 | chapter, which fine is designated to be deposited or which would  
 359 | otherwise be deposited into the General Revenue Fund of the  
 360 | state, shall be deposited into the Election Campaign Financing  
 361 | Trust Fund.

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362        (6)~~(5)~~ In any case in which the commission determines that  
363 a person has filed a complaint against another person with a  
364 malicious intent to injure the reputation of the person  
365 complained against by filing the complaint with knowledge that  
366 the complaint contains one or more false allegations or with  
367 reckless disregard for whether the complaint contains false  
368 allegations of fact material to a violation of this chapter or  
369 chapter 104, the complainant shall be liable for costs and  
370 reasonable attorney's fees incurred in the defense of the person  
371 complained against, including the costs and reasonable  
372 attorney's fees incurred in proving entitlement to and the  
373 amount of costs and fees. If the complainant fails to pay such  
374 costs and fees voluntarily within 30 days following such finding  
375 by the commission, the commission shall forward such information  
376 to the Department of Legal Affairs, which shall bring a civil  
377 action in a court of competent jurisdiction to recover the  
378 amount of such costs and fees awarded by the commission.

379        Section 11. Section 103.161, Florida Statutes, is  
380 repealed.

381        Section 12. This act shall take effect July 1, 2011.