

By Senator Diaz de la Portilla

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1                   A bill to be entitled  
2       An act relating to elections; amending s. 106.08,  
3       F.S.; revising the limitations on contributions made  
4       to certain candidates and political committees;  
5       reenacting ss. 106.04(5), 106.075(2), 106.087, 106.19,  
6       and 106.29, F.S., relating to contributions made by  
7       committees of continuous existence, contributions made  
8       to pay all or part of loans incurred, penalties for  
9       the acceptance of contributions or expenditures made  
10      in excess of the statutory limits or failing to report  
11      or falsely reporting certain information, and  
12      contributions received and expenditures made by state  
13      executive and county executive committees of each  
14      political party, to incorporate the amendment made to  
15      s. 106.08, F.S., in references thereto; providing an  
16      effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20       Section 1. Paragraph (a) of subsection (1) of section  
21 106.08, Florida Statutes, is amended to read:

22       106.08 Contributions; limitations on.-

23       (1) (a) Except for political parties, no person, political  
24       committee, or committee of continuous existence may, in any  
25       election, make contributions ~~in excess of \$500~~ to any candidate  
26       ~~for election to or retention in office~~ or to any political  
27       committee supporting or opposing one or more candidates in  
28       excess of the following amounts:-

29       1. To a candidate for the offices of Governor and

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30 Lieutenant Governor, or any political committee supporting or  
31 opposing only such candidates, \$10,000. Candidates for the  
32 offices of Governor and Lieutenant Governor on the same ticket  
33 are considered a single candidate for the purposes of this  
34 paragraph.

35 2. To a candidate for statewide office other than the  
36 offices of Governor and Lieutenant Governor, or any political  
37 committee supporting or opposing only such candidates, \$5,000.

38 3. To a candidate for legislative or multicounty office, or  
39 any political committee supporting or opposing only such  
40 candidates, \$2,500.

41 4. To a candidate for countywide office or to a candidate  
42 in any election conducted on less than a countywide basis; a  
43 candidate for county court judge or circuit judge; a candidate  
44 for retention as a judge of a district court of appeal or as a  
45 justice of the Supreme Court; or any political committee  
46 supporting or opposing only such candidates, \$1,000.

47 5. To a political committee supporting or opposing two or  
48 more candidates that are subject to different contribution  
49 limitations under this paragraph, the lowest of such  
50 contribution limitations. Candidates for the offices of Governor  
51 and Lieutenant Governor on the same ticket are considered a  
52 single candidate for the purpose of this section.

53 Section 2. For the purpose of incorporating the amendment  
54 made by this act to section 106.08, Florida Statutes, in a  
55 reference thereto, subsection (5) of section 106.04, Florida  
56 Statutes, is reenacted to read:

57 106.04 Committees of continuous existence.-

58 (5) No committee of continuous existence shall make an

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59 electioneering communication, contribute to any candidate or  
60 political committee an amount in excess of the limits contained  
61 in s. 106.08(1), or participate in any activity which is  
62 prohibited by this chapter. If any violation occurs, it shall be  
63 punishable as provided in this chapter for the given offense. No  
64 funds of a committee of continuous existence shall be expended  
65 on behalf of a candidate, except by means of a contribution made  
66 through the duly appointed campaign treasurer of a candidate. No  
67 such committee shall make expenditures in support of, or in  
68 opposition to, an issue unless such committee first registers as  
69 a political committee pursuant to this chapter and undertakes  
70 all the practices and procedures required thereof; provided such  
71 committee may make contributions in a total amount not to exceed  
72 25 percent of its aggregate income, as reflected in the annual  
73 report filed for the previous year, to one or more political  
74 committees registered pursuant to s. 106.03 and formed to  
75 support or oppose issues.

76 Section 3. For the purpose of incorporating the amendment  
77 made by this act to section 106.08, Florida Statutes, in a  
78 reference thereto, subsection (2) of section 106.075, Florida  
79 Statutes, is reenacted to read:

80 106.075 Elected officials; report of loans made in year  
81 preceding election; limitation on contributions to pay loans.—

82 (2) Any person who makes a contribution to an individual to  
83 pay all or part of a loan incurred, in the 12 months preceding  
84 the election, to be used for the individual's campaign, may not  
85 contribute more than the amount which is allowed in s.  
86 106.08(1).

87 Section 4. For the purpose of incorporating the amendment

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88 made by this act to section 106.08, Florida Statutes, in a  
89 reference thereto, section 106.087, Florida Statutes, is  
90 reenacted to read:

91 106.087 Independent expenditures; contribution limits;  
92 restrictions on political parties, political committees, and  
93 committees of continuous existence.—

94 (1) (a) As a condition of receiving a rebate of filing fees  
95 and party assessment funds pursuant to s. 99.061(2), s.  
96 99.092(1), s. 99.103, or s. 103.121(1) (b), the chair or  
97 treasurer of a state or county executive committee shall take  
98 and subscribe to an oath or affirmation in writing. During the  
99 qualifying period for state candidates and prior to distribution  
100 of such funds, a printed copy of the oath or affirmation shall  
101 be filed with the Secretary of State and shall be substantially  
102 in the following form:

103  
104 State of Florida  
105 County of....

106 Before me, an officer authorized to administer oaths,  
107 personally appeared ...(name)..., to me well known, who, being  
108 sworn, says that he or she is the ...(title)... of the ...(name  
109 of party)... ...(state or specified county)... executive  
110 committee; that the executive committee has not made, either  
111 directly or indirectly, an independent expenditure in support of  
112 or opposition to a candidate or elected public official in the  
113 prior 6 months; that the executive committee will not make,  
114 either directly or indirectly, an independent expenditure in  
115 support of or opposition to a candidate or elected public  
116 official, through and including the upcoming general election;

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117 and that the executive committee will not violate the  
118 contribution limits applicable to candidates under s. 106.08(2),  
119 Florida Statutes.

120 ... (Signature of committee officer)...

121 ... (Address)...

122

123 Sworn to and subscribed before me this .... day of ....,  
124 ... (year) ..., at .... County, Florida.

125 ... (Signature and title of officer administering oath)...

126

127 (b) Any executive committee found to have violated the  
128 provisions of the oath or affirmation in this section prior to  
129 receiving funds shall be ineligible to receive the rebate for  
130 that general election year.

131 (c) Any executive committee found to have violated the  
132 provisions of the oath or affirmation in this section after  
133 receiving funds shall be ineligible to receive the rebate from  
134 candidates qualifying for the following general election cycle.

135 (d) Any funds not distributed to the state or county  
136 executive committee pursuant to this section shall be deposited  
137 into the General Revenue Fund of the state.

138 (2) (a) Any political committee or committee of continuous  
139 existence that accepts the use of public funds, equipment,  
140 personnel, or other resources to collect dues from its members  
141 agrees not to make independent expenditures in support of or  
142 opposition to a candidate or elected public official. However,  
143 expenditures may be made for the sole purpose of jointly  
144 endorsing three or more candidates.

145 (b) Any political committee or committee of continuous

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146 existence that violates this subsection is liable for a civil  
147 fine of up to \$5,000 to be determined by the Florida Elections  
148 Commission or the entire amount of the expenditures, whichever  
149 is greater.

150 Section 5. For the purpose of incorporating the amendment  
151 made by this act to section 106.08, Florida Statutes, in a  
152 reference thereto, section 106.19, Florida Statutes, is  
153 reenacted to read:

154 106.19 Violations by candidates, persons connected with  
155 campaigns, and political committees.—

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

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

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

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

168 (d) Makes or authorizes any expenditure in violation of s.  
169 106.11(4) or any other expenditure prohibited by this chapter;

170  
171 is guilty of a misdemeanor of the first degree, punishable as  
172 provided in s. 775.082 or s. 775.083.

173 (2) Any candidate, campaign treasurer, or deputy treasurer;  
174 any chair, vice chair, or other officer of any political

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175 committee; any agent or person acting on behalf of any candidate  
176 or political committee; or any other person who violates  
177 paragraph (1) (a), paragraph (1) (b), or paragraph (1) (d) shall be  
178 subject to a civil penalty equal to three times the amount  
179 involved in the illegal act. Such penalty may be in addition to  
180 the penalties provided by subsection (1) and shall be paid into  
181 the General Revenue Fund of this state.

182 (3) A political committee sponsoring a constitutional  
183 amendment proposed by initiative which submits a petition form  
184 gathered by a paid petition circulator which does not provide  
185 the name and address of the paid petition circulator on the form  
186 is subject to the civil penalties prescribed in s. 106.265.

187 Section 6. For the purpose of incorporating the amendment  
188 made by this act to section 106.08, Florida Statutes, in a  
189 reference thereto, section 106.29, Florida Statutes, is  
190 reenacted to read:

191 106.29 Reports by political parties; restrictions on  
192 contributions and expenditures; penalties.-

193 (1) The state executive committee and each county executive  
194 committee of each political party regulated by chapter 103 shall  
195 file regular reports of all contributions received and all  
196 expenditures made by such committee. Such reports shall contain  
197 the same information as do reports required of candidates by s.  
198 106.07 and shall be filed on the 10th day following the end of  
199 each calendar quarter, except that, during the period from the  
200 last day for candidate qualifying until the general election,  
201 such reports shall be filed on the Friday immediately preceding  
202 both the primary election and the general election. In addition  
203 to the reports filed under this section, the state executive

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204 committee and each county executive committee shall file a copy  
205 of each prior written acceptance of an in-kind contribution  
206 given by the committee during the preceding calendar quarter as  
207 required under s. 106.08(6). Each state executive committee  
208 shall file the original and one copy of its reports with the  
209 Division of Elections. Each county executive committee shall  
210 file its reports with the supervisor of elections in the county  
211 in which such committee exists. Any state or county executive  
212 committee failing to file a report on the designated due date  
213 shall be subject to a fine as provided in subsection (3). No  
214 separate fine shall be assessed for failure to file a copy of  
215 any report required by this section.

216 (2) The chair and treasurer of each state or county  
217 executive committee shall certify as to the correctness of each  
218 report filed by them on behalf of such committee. Any committee  
219 chair or treasurer who certifies the correctness of any report  
220 while knowing that such report is incorrect, false, or  
221 incomplete commits a felony of the third degree, punishable as  
222 provided in s. 775.082, s. 775.083, or s. 775.084.

223 (3) (a) Any state or county executive committee failing to  
224 file a report on the designated due date shall be subject to a  
225 fine as provided in paragraph (b) for each late day. The fine  
226 shall be assessed by the filing officer, and the moneys  
227 collected shall be deposited in the General Revenue Fund.

228 (b) Upon determining that a report is late, the filing  
229 officer shall immediately notify the chair of the executive  
230 committee as to the failure to file a report by the designated  
231 due date and that a fine is being assessed for each late day.  
232 The fine shall be \$1,000 for a state executive committee, and



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233 \$50 for a county executive committee, per day for each late day,  
234 not to exceed 25 percent of the total receipts or expenditures,  
235 whichever is greater, for the period covered by the late report.  
236 However, if an executive committee fails to file a report on the  
237 Friday immediately preceding the general election, the fine  
238 shall be \$10,000 per day for each day a state executive  
239 committee is late and \$500 per day for each day a county  
240 executive committee is late. Upon receipt of the report, the  
241 filing officer shall determine the amount of the fine which is  
242 due and shall notify the chair. The filing officer shall  
243 determine the amount of the fine due based upon the earliest of  
244 the following:

- 245 1. When the report is actually received by such officer.
- 246 2. When the report is postmarked.
- 247 3. When the certificate of mailing is dated.
- 248 4. When the receipt from an established courier company is  
249 dated.
- 250 5. When the electronic receipt issued pursuant to s.  
251 106.0705 is dated.

252

253 Such fine shall be paid to the filing officer within 20 days  
254 after receipt of the notice of payment due, unless appeal is  
255 made to the Florida Elections Commission pursuant to paragraph  
256 (c). An officer or member of an executive committee shall not be  
257 personally liable for such fine.

258 (c) The chair of an executive committee may appeal or  
259 dispute the fine, based upon unusual circumstances surrounding  
260 the failure to file on the designated due date, and may request  
261 and shall be entitled to a hearing before the Florida Elections

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262 Commission, which shall have the authority to waive the fine in  
263 whole or in part. Any such request shall be made within 20 days  
264 after receipt of the notice of payment due. In such case, the  
265 chair of the executive committee shall, within the 20-day  
266 period, notify the filing officer in writing of his or her  
267 intention to bring the matter before the commission.

268 (d) The appropriate filing officer shall notify the Florida  
269 Elections Commission of the repeated late filing by an executive  
270 committee, the failure of an executive committee to file a  
271 report after notice, or the failure to pay the fine imposed.

272 (4) Any contribution received by a state or county  
273 executive committee less than 5 days before an election shall  
274 not be used or expended in behalf of any candidate, issue, or  
275 political party participating in such election.

276 (5) No state or county executive committee, in the  
277 furtherance of any candidate or political party, directly or  
278 indirectly, shall give, pay, or expend any money, give or pay  
279 anything of value, authorize any expenditure, or become  
280 pecuniarily liable for any expenditure prohibited by this  
281 chapter. However, the contribution of funds by one executive  
282 committee to another or to established party organizations for  
283 legitimate party or campaign purposes is not prohibited, but all  
284 such contributions shall be recorded and accounted for in the  
285 reports of the contributor and recipient.

286 (6) (a) The national, state, and county executive committees  
287 of a political party may not contribute to any candidate any  
288 amount in excess of the limits contained in s. 106.08(2), and  
289 all contributions required to be reported under s. 106.08(2) by  
290 the national executive committee of a political party shall be

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291 reported by the state executive committee of that political  
292 party.

293 (b) A violation of the contribution limits contained in s.  
294 106.08(2) is a misdemeanor of the first degree, punishable as  
295 provided in s. 775.082 or s. 775.083. A civil penalty equal to  
296 three times the amount in excess of the limits contained in s.  
297 106.08(2) shall be assessed against any executive committee  
298 found in violation thereof.

299 Section 7. This act shall take effect July 1, 2011.