

By Representatives Turnbull and Wiles

1 A bill to be entitled
2 An act relating to campaign financing; amending
3 s. 106.011, F.S.; revising the definition of
4 the term "political advertisement"; amending s.
5 106.021, F.S.; eliminating a provision that
6 authorizes the unrestricted expenditure of
7 funds for the purpose of jointly endorsing
8 three or more candidates; amending s. 106.087,
9 F.S., relating to restrictions on independent
10 expenditures, to eliminate a similar provision,
11 to conform; amending s. 106.08, F.S.; providing
12 limits on contributions to political parties;
13 revising limits on contributions to candidates
14 by political parties; providing penalties;
15 amending ss. 106.087 and 106.29, F.S.;
16 correcting cross references, to conform;
17 reenacting s. 106.19(1)(a), F.S., relating to
18 penalties applicable to acceptance of
19 contributions in excess of limits provided by
20 law, to incorporate the amendment to s. 106.08,
21 F.S., in a reference thereto; providing an
22 effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (17) of section 106.011, Florida
27 Statutes, is amended to read:

28 106.011 Definitions.--As used in this chapter, the
29 following terms have the following meanings unless the context
30 clearly indicates otherwise:
31

1 (17)(a) "Political advertisement" means a paid
2 expression in any communications media prescribed in
3 subsection (13), whether radio, television, newspaper,
4 magazine, periodical, campaign literature, direct mail, or
5 display or by means other than the spoken word in direct
6 conversation, which shall support or oppose any candidate,
7 elected public official, or issue. A political advertisement
8 shall be deemed to support or oppose a candidate or elected
9 public official if it mentions or shows a clearly identifiable
10 candidate for election or reelection and is distributed at any
11 point during the period following the last day of qualifying
12 for that candidacy through the immediately ensuing general
13 election, regardless of whether the communication contains the
14 words "vote for," "re-elect," "vote against," "defeat," or any
15 similar words or statements.

16 (b) ~~However,~~ "Political advertisement" does not
17 include:

18 1.(a) A statement by an organization, in existence
19 prior to the time during which a candidate qualifies or an
20 issue is placed on the ballot for that election, in support of
21 or opposition to a candidate or issue, in that organization's
22 newsletter, which newsletter is distributed only to the
23 members of that organization.

24 2.(b) Editorial endorsements by any newspaper, radio
25 or television station, or other recognized news medium.

26 3. A paid expression in any communications media that
27 mentions or shows a clearly identifiable candidate for
28 election or reelection and that:

29 a. Advertises a business rather than the candidate, is
30 paid for out of funds of that business, and is similar to
31 other advertisements for that business that have mentioned or

1 shown the candidate and have been distributed on a regular
2 basis over a period of at least 1 year prior to the qualifying
3 period for that candidacy; or

4 b. Is distributed or broadcast only to areas other
5 than the geographical area of the electorate for that
6 candidacy.

7 Section 2. Subsection (3) of section 106.021, Florida
8 Statutes, is amended to read:

9 106.021 Campaign treasurers; deputies; primary and
10 secondary depositories.--

11 (3) Except for independent expenditures, no
12 contribution or expenditure, including contributions or
13 expenditures of a candidate or of the candidate's family,
14 shall be directly or indirectly made or received in
15 furtherance of the candidacy of any person for nomination or
16 election to political office in the state or on behalf of any
17 political committee except through the duly appointed campaign
18 treasurer of the candidate or political committee. ~~However,~~
19 ~~expenditures may be made directly by any political committee~~
20 ~~or political party regulated by chapter 103 for obtaining~~
21 ~~time, space, or services in or by any communications medium~~
22 ~~for the purpose of jointly endorsing three or more candidates,~~
23 ~~and any such expenditure shall not be considered a~~
24 ~~contribution or expenditure to or on behalf of any such~~
25 ~~candidates for the purposes of this chapter.~~

26 Section 3. Paragraph (a) of subsection (2) of section
27 106.087, Florida Statutes, is amended to read:

28 106.087 Independent expenditures; contribution limits;
29 restrictions on political parties, political committees, and
30 committees of continuous existence.--

31

1 (2)(a) Any political committee or committee of
 2 continuous existence that accepts the use of public funds,
 4 its members agrees not to make independent expenditures in
 5 support of or opposition to a candidate or elected public
 ~~However, expenditures may be made for the sole~~

7 _____
 8 Section 4. Section 106.08, Florida Statutes, is
 9 amended to read:

11 (1)(a) Except for political parties, no person,
 12 political committee, or committee of continuous existence may,
 14 candidate for election to or retention in office or to any
 15 political committee supporting or opposing one or more
 17 Lieutenant Governor on the same ticket are considered a single
 18 candidate for the purpose of this section.

20 subsection do not apply to contributions made by a state or
 21 county executive committee of a political party regulated by
 23 her own campaign.

24 2. Notwithstanding the limits provided in this
 26 of age may not make a contribution in excess of \$100 to any
 27 candidate or to any political committee supporting one or more

29 (c) The contribution limits of this subsection apply
 30 to each election. For purposes of this subsection, the first

1 elections so long as the candidate is not an unopposed
2 candidate as defined in s. 106.011(15). However, for the
3 purpose of contribution limits with respect to candidates for
4 retention as a justice of the Supreme Court or judge of a
5 district court of appeal, there is only one election, which is
6 the general election, and with respect to candidates for
7 circuit judge or county court judge, there are only two
8 elections, which are the first primary election and general
9 election.

10 (2) A person, political committee, or committee of
11 continuous existence may not make contributions to the state
12 and county executive committees of a political party,
13 including any subordinate committee of a state or county
14 executive committee of a political party, which contributions,
15 including in-kind contributions, in the aggregate in any
16 calendar year exceed \$5,000.

17 (3)(2)(a) A candidate may not accept contributions
18 from national, state, including any subordinate committee of a
19 national, state, or county committee of a political party, and
20 county executive committees of a political party, including
21 any subordinate committee of a national, state, or county
22 executive committee of a political party, which contributions,
23 including in-kind contributions, in the aggregate in any
24 calendar year exceed \$5,000 \$50,000, no more than \$25,000 of
25 which may be accepted prior to the 28-day period immediately
26 preceding the date of the general election.

27 (b) National, state, and county executive committees
28 of a political party, including any subordinate committee of a
29 national, state, or county executive committee of a political
30 party, may not make contributions to a candidate, which
31

1 contributions, including in-kind contributions, in the
2 aggregate in any calendar year exceed \$5,000.

3 ~~(b) Polling services, research services, costs for~~
4 ~~campaign staff, professional consulting services, and~~
5 ~~telephone calls are not contributions to be counted toward the~~
6 ~~contribution limits of paragraph (a). Any item not expressly~~
7 ~~identified in this paragraph as nonallocable is a contribution~~
8 ~~in an amount equal to the fair market value of the item and~~
9 ~~must be counted as allocable toward the \$50,000 contribution~~
10 ~~limits of paragraph (a). Nonallocable, in-kind contributions~~
11 ~~must be reported by the candidate under s. 106.07 and by the~~
12 ~~political party under s. 106.29.~~

13 (4)(3)(a) Any contribution received by a candidate
14 with opposition in an election or by the campaign treasurer or
15 a deputy campaign treasurer of such a candidate on the day of
16 that election or less than 5 days prior to the day of that
17 election must be returned by him or her to the person or
18 committee contributing it and may not be used or expended by
19 or on behalf of the candidate.

20 (b) Except as otherwise provided in paragraph (c), any
21 contribution received by a candidate or by the campaign
22 treasurer or a deputy campaign treasurer of a candidate after
23 the date at which the candidate withdraws his or her
24 candidacy, or after the date the candidate is defeated,
25 becomes unopposed, or is elected to office must be returned to
26 the person or committee contributing it and may not be used or
27 expended by or on behalf of the candidate.

28 (c) With respect to any campaign for an office in
29 which an independent or minor party candidate has filed as
30 required in s. 99.0955 or s. 99.096, but whose qualification
31 is pending a determination by the Department of State or

1 supervisor of elections as to whether or not the required
2 number of petition signatures was obtained:

3 1. The department or supervisor shall, no later than 3
4 days after that determination has been made, notify in writing
5 all other candidates for that office of that determination.

6 2. Any contribution received by a candidate or the
7 campaign treasurer or deputy campaign treasurer of a candidate
8 after the candidate has been notified in writing by the
9 department or supervisor that he or she has become unopposed
10 as a result of an independent or minor party candidate failing
11 to obtain the required number of petition signatures shall be
12 returned to the person, political committee, or committee of
13 continuous existence contributing it and shall not be used or
14 expended by or on behalf of the candidate.

15 (5)~~(4)~~ Any contribution received by the chair,
16 campaign treasurer, or deputy campaign treasurer of a
17 political committee supporting or opposing a candidate with
18 opposition in an election or supporting or opposing an issue
19 on the ballot in an election on the day of that election or
20 less than 5 days prior to the day of that election may not be
21 obligated or expended by the committee until after the date of
22 the election.

23 (6)~~(5)~~ A person may not make any contribution through
24 or in the name of another, directly or indirectly, in any
25 election. Candidates, political committees, and political
26 parties may not solicit contributions from or make
27 contributions to any religious, charitable, civic, or other
28 causes or organizations established primarily for the public
29 good. However, it is not a violation of this subsection for a
30 candidate, political committee, or political party executive
31 committee to make gifts of money in lieu of flowers in memory

1 of a deceased person or for a candidate to continue membership
2 in, or make regular donations from personal or business funds
3 to, religious, political party, civic, or charitable groups of
4 which the candidate is a member or to which the candidate has
5 been a regular donor for more than 6 months. A candidate may
6 purchase, with campaign funds, tickets, admission to events,
7 or advertisements from religious, civic, political party, or
8 charitable groups.

9 (7)~~(6)~~ A political party may not accept any
10 contribution which has been specifically designated for the
11 partial or exclusive use of a particular candidate. Any
12 contribution so designated must be returned to the contributor
13 and may not be used or expended by or on behalf of the
14 candidate.

15 (8)~~(7)~~(a) Any person who knowingly and willfully makes
16 no more than one contribution in violation of subsection (1),
17 subsection (2), or subsection~~(6)~~~~(5)~~, or any person who
18 knowingly and willfully fails or refuses to return any
19 contribution as required in subsection~~(4)~~~~(3)~~, commits a
20 misdemeanor of the first degree, punishable as provided in s.
21 775.082 or s. 775.083. If any corporation, partnership, or
22 other business entity or any political party, political
23 committee, or committee of continuous existence is convicted
24 of knowingly and willfully violating any provision punishable
25 under this paragraph, it shall be fined not less than \$1,000
26 and not more than \$10,000. If it is a domestic entity, it may
27 be ordered dissolved by a court of competent jurisdiction; if
28 it is a foreign or nonresident business entity, its right to
29 do business in this state may be forfeited. Any officer,
30 partner, agent, attorney, or other representative of a
31 corporation, partnership, or other business entity or of a

1 political party, political committee, or committee of
2 continuous existence who aids, abets, advises, or participates
3 in a violation of any provision punishable under this
4 paragraph commits a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 (b) Any person who knowingly and willfully makes two
7 or more contributions in violation of subsection (1),
8 subsection (2), or subsection ~~(6)~~~~(5)~~ commits a felony of the
9 third degree, punishable as provided in s. 775.082, s.
10 775.083, or s. 775.084. If any corporation, partnership, or
11 other business entity or any political party, political
12 committee, or committee of continuous existence is convicted
13 of knowingly and willfully violating any provision punishable
14 under this paragraph, it shall be fined not less than \$10,000
15 and not more than \$50,000. If it is a domestic entity, it may
16 be ordered dissolved by a court of competent jurisdiction; if
17 it is a foreign or nonresident business entity, its right to
18 do business in this state may be forfeited. Any officer,
19 partner, agent, attorney, or other representative of a
20 corporation, partnership, or other business entity, or of a
21 political committee, committee of continuous existence, or
22 political party who aids, abets, advises, or participates in a
23 violation of any provision punishable under this paragraph
24 commits a felony of the third degree, punishable as provided
25 in s. 775.082, s. 775.083, or s. 775.084.

26 ~~(9)~~~~(8)~~ Except when otherwise provided in subsection
27 ~~(8)~~~~(7)~~, any person who knowingly and willfully violates any
28 provision of this section shall, in addition to any other
29 penalty prescribed by this chapter, pay to the state a sum
30 equal to twice the amount contributed in violation of this
31 chapter. Each campaign treasurer shall pay all amounts

1 contributed in violation of this section to the state for
2 deposit in the General Revenue Fund.

3 (10)~~(9)~~ This section does not apply to the transfer of
4 funds between a primary campaign depository and a savings
5 account or certificate of deposit or to any interest earned on
6 such account or certificate.

7 Section 5. Paragraph (a) of subsection (1) of section
8 106.087, Florida Statutes, is amended to read:

9 106.087 Independent expenditures; contribution limits;
10 restrictions on political parties, political committees, and
11 committees of continuous existence.--

12 (1)(a) As a condition of receiving a rebate of filing
13 fees and party assessment funds pursuant to s. 99.061(2), s.
14 99.092(1), s. 99.103, or s. 103.121(1)(b), the chair or
15 treasurer of a state or county executive committee shall take
16 and subscribe to an oath or affirmation in writing. During the
17 qualifying period for state candidates and prior to
18 distribution of such funds, a printed copy of the oath or
19 affirmation shall be filed with the Secretary of State and
20 shall be substantially in the following form:

21
22 State of Florida
23 County of....

24 Before me, an officer authorized to administer oaths,
25 personally appeared ...(name)..., to me well known, who, being
26 sworn, says that he or she is the ...(title)... of the
27 ...(name of party)... ...(state or specified county)...
28 executive committee; that the executive committee has not
29 made, either directly or indirectly, an independent
30 expenditure in support of or opposition to a candidate or
31 elected public official in the prior 6 months; that the

1 executive committee will not make, either directly or
2 indirectly, an independent expenditure in support of or
3 opposition to a candidate or elected public official, through
4 and including the upcoming general election; and that the
5 executive committee will not violate the contribution limits
6 applicable to candidates under s. 106.08(3)(2), Florida
7 Statutes.

8 ... (Signature of committee officer)...
9 ... (Address)...

10

11 Sworn to and subscribed before me this day of,
12 19....., at County, Florida.

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

14

15 Section 6. Subsection (6) of section 106.29, Florida
16 Statutes, is amended to read:

17 106.29 Reports by political parties; restrictions on
18 contributions and expenditures; penalties.--

19 (6)(a) The national, state, and county executive
20 committees of a political party, including any subordinate
21 committee of a national, state, or county executive committee
22 of a political party, may not contribute to any candidate any
23 amount in excess of the limits contained in s. 106.08(3)(2),
24 ~~and all contributions required to be reported under s.~~
25 ~~106.08(2) by the national executive committee of a political~~
26 ~~party shall be reported by the state executive committee of~~
27 ~~that political party.~~

28 (b) A violation of the contribution limits contained
29 in s. 106.08(3)(2) is a misdemeanor of the first degree,
30 punishable as provided in s. 775.082 or s. 775.083. A civil
31 penalty equal to three times the amount in excess of the

1 limits contained in s. 106.08(3)~~(2)~~ shall be assessed against
2 any executive committee found in violation thereof.

3 Section 7. For the purpose of incorporating the
4 amendment to section 106.08, Florida Statutes, in a reference
5 thereto, paragraph (a) of subsection (1) of section 106.19,
6 Florida Statutes, is reenacted to read:

7 106.19 Violations by candidates, persons connected
8 with campaigns, and political committees.--

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

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

17
18 is guilty of a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20 Section 8. This act shall take effect January 1, 2000.

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23 HOUSE SUMMARY

24 Revises the definition of the term "political
25 advertisement." Eliminates provisions that authorize the
26 unrestricted expenditure of funds for the purpose of
27 jointly endorsing three or more candidates. Provides a
28 specified annual aggregate contribution limit to
29 contributions from any one person, political committee,
30 or committee of continuous existence to a political party
31 and to contributions from a political party to a
candidate. See bill for details.