

By Senator Lee

23-1543-02

1                                   A bill to be entitled  
2           An act relating to elections; amending s.  
3           106.011, F.S.; redefining the term "political  
4           committee"; defining the term "expressly  
5           advocates the election or defeat of a candidate  
6           or issue"; amending s. 106.07, F.S.; changing  
7           the fine for certain late-filed reports;  
8           amending s. 106.11, F.S.; authorizing the use  
9           of debit cards for campaigns; providing  
10          requirements; amending s. 106.12, F.S.;  
11          increasing the amount for petty cash  
12          expenditures; amending s. 106.141, F.S.;  
13          requiring the filing officer to notify  
14          candidates before the date the final report is  
15          due; amending s. 106.15, F.S.; expanding the  
16          prohibition on the use of state employees for  
17          campaign purposes during working hours to  
18          county, municipal, and district employees;  
19          amending s. 106.19, F.S.; conforming a  
20          statutory cross-reference; providing for  
21          severability; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:  
24

25           Section 1. Subsection (1) of section 106.011, Florida  
26 Statutes, is amended, and subsection (18) is added to that  
27 section, 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)(a) "Political committee" means:

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

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

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

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

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

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

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

26           1. Organizations which are certified by the Department  
27 of State as committees of continuous existence pursuant to s.  
28 106.04, national political parties, and the state and county  
29 executive committees of political parties regulated by chapter  
30 103 ~~shall not be considered political committees for the~~  
31 ~~purposes of this chapter.~~

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

9           (18) "Expressly advocates the election or defeat of a  
10 candidate or issue" or "expressly advocating the election or  
11 defeat of a candidate or issue" means to sponsor or fund, in  
12 whole or in part, a paid expression in any communications  
13 media prescribed in subsection (13), whether radio,  
14 television, newspaper, magazine, periodical, campaign  
15 literature, direct mail, or display, or by any means other  
16 than the spoken word in direct conversation, which, when read  
17 as a whole and with limited reference to external events, is  
18 susceptible of no other reasonable interpretation but as an  
19 exhortation to vote for or against a clearly-identified  
20 candidate or issue, because it:

- 21           (a) Contains a message that is unmistakable,  
22 unambiguous, and suggestive of only one plausible meaning;  
23           (b) Presents a clear plea for action; and  
24           (c) Makes clear what action is advocated.

25  
26 The absence of express words of advocacy creates a rebuttable  
27 presumption that the paid expression does not expressly  
28 advocate for or against a candidate or issue.

29           Section 2. Paragraph (b) of subsection (8) of section  
30 106.07, Florida Statutes, is amended to read:

31           106.07 Reports; certification and filing.--

1           (8)  
2           (b) Upon determining that a report is late, the filing  
3 officer shall immediately notify the candidate or chair of the  
4 political committee as to the failure to file a report by the  
5 designated due date and that a fine is being assessed for each  
6 late day. The fine shall be \$50 per day for the first 3 days  
7 late and, thereafter, \$500 per day for each late day, not to  
8 exceed 25 percent of the total receipts or expenditures,  
9 whichever is greater, for the period covered by the late  
10 report. However, for the reports immediately preceding each  
11 primary and general election, the fine shall be \$500 per day  
12 for each late day, not to exceed 25 percent of the total  
13 receipts or expenditures, whichever if greater, for the period  
14 covered by the late report. For reports required under s.  
15 106.141(7), the fine is \$50 per day for each late day, not to  
16 exceed 25 percent of the total receipts or expenditures,  
17 whichever is greater, for the period covered by the late  
18 report. Upon receipt of the report, the filing officer shall  
19 determine the amount of the fine which is due and shall notify  
20 the candidate or chair. The filing officer shall determine  
21 the amount of the fine due based upon the earliest of the  
22 following:

- 23           1. When the report is actually received by such  
24 officer.
- 25           2. When the report is postmarked.
- 26           3. When the certificate of mailing is dated.
- 27           4. When the receipt from an established courier  
28 company is dated.

29  
30 Such fine shall be paid to the filing officer within 20 days  
31 after receipt of the notice of payment due, unless appeal is

1 made to the Florida Elections Commission pursuant to paragraph  
2 (c). In the case of a candidate, such fine shall not be an  
3 allowable campaign expenditure and shall be paid only from  
4 personal funds of the candidate. An officer or member of a  
5 political committee shall not be personally liable for such  
6 fine.

7 Section 3. Section 106.11, Florida Statutes, is  
8 amended to read:

9 106.11 Expenses of and expenditures by candidates and  
10 political committees.--Each candidate and each political  
11 committee which designates a primary campaign depository  
12 pursuant to s. 106.021(1) shall make expenditures from funds  
13 on deposit in such primary campaign depository only in the  
14 following manner, with the exception of expenditures made from  
15 petty cash funds provided by s. 106.12:

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

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

27 1.~~(a)~~ The statement "Campaign Account of ...(name of  
28 candidate or political committee)...."

29 2.~~(b)~~ The account number and the name of the bank.

30 3.~~(c)~~ The exact amount of the expenditure.

31

- 1           ~~4.(d)~~ The signature of the campaign treasurer or  
2 deputy treasurer.
- 3           ~~5.(e)~~ The exact purpose for which the expenditure is  
4 authorized.
- 5           ~~6.(f)~~ The name of the payee.
- 6           (2)(a) For purposes of this section, debit cards are  
7 considered bank checks, if:
- 8           1. Debit cards are obtained from the same bank that  
9 has been designated as the candidate's or political  
10 committee's primary campaign depository.
- 11           2. Debit cards are issued in the name of the  
12 treasurer, deputy treasurer, or authorized user and state  
13 "Campaign Account of (name of candidate or political  
14 committee)."
- 15           3. No more than three debit cards are requested and  
16 issued.
- 17           4. Before a debit card is used, a list of all persons  
18 authorized to use the card is filed with the division.
- 19           5. All debit cards issued to a candidate's campaign or  
20 a political committee expire no later than midnight of the  
21 last day of the month of the general election.
- 22           6. The person using the debit card does not receive  
23 cash as part of, or independent of, any transaction for goods  
24 or services.
- 25           7. All receipts for debit card transactions contain:
- 26           a. The last four digits of the debit card number.
- 27           b. The exact amount of the expenditure.
- 28           c. The name of the payee.
- 29           d. The signature of the campaign treasurer, deputy  
30 treasurer, or authorized user.
- 31

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

3  
4 Any information required by this sub-subparagraph but not  
5 included on the debit card transaction receipt may be  
6 handwritten on the receipt by the authorized user before  
7 submission to the treasurer.

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

10           ~~(3)(2)~~ The campaign treasurer or deputy treasurer who  
11 signs the check shall be responsible for the completeness and  
12 accuracy of the information on such check and for insuring  
13 that such expenditure is an authorized expenditure.

14           ~~(4)(3)~~ No candidate, campaign manager, treasurer,  
15 deputy treasurer, or political committee or any officer or  
16 agent thereof, or any person acting on behalf of any of the  
17 foregoing, shall authorize any expenses, nor shall any  
18 campaign treasurer or deputy treasurer sign a check drawn on  
19 the primary campaign account for any purpose, unless there are  
20 sufficient funds on deposit in the primary depository account  
21 of the candidate or political committee to pay the full amount  
22 of the authorized expense, to honor all other checks drawn on  
23 such account, which checks are outstanding, and to meet all  
24 expenses previously authorized but not yet paid. However, an  
25 expense may be incurred for the purchase of goods or services  
26 if there are sufficient funds on deposit in the primary  
27 depository account to pay the full amount of the incurred  
28 expense, to honor all checks drawn on such account, which  
29 checks are outstanding, and to meet all other expenses  
30 previously authorized but not yet paid, provided that payment  
31 for such goods or services is made upon final delivery and

1 acceptance of the goods or services; and an expenditure from  
2 petty cash pursuant to the provisions of s. 106.12 may be  
3 authorized, if there is a sufficient amount of money in the  
4 petty cash fund to pay for such expenditure. Payment for  
5 credit card purchases shall be made pursuant to s. 106.125.  
6 Any expense incurred or authorized in excess of such funds on  
7 deposit shall, in addition to other penalties provided by law,  
8 constitute a violation of this chapter.

9 (5)~~(4)~~ A candidate who withdraws his or her candidacy,  
10 becomes an unopposed candidate, or is eliminated as a  
11 candidate or elected to office may expend funds from the  
12 campaign account to:

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

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

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

20 (d) Dispose of surplus funds as provided in s.  
21 106.141.

22 Section 4. Subsection (3) of section 106.12, Florida  
23 Statutes, is amended to read:

24 106.12 Petty cash funds allowed.--

25 (3) The petty cash fund so provided shall be spent  
26 only in amounts less than \$50~~\$30~~ and only for office  
27 supplies, transportation expenses, and other necessities.  
28 Petty cash shall not be used for the purchase of time, space,  
29 or services from communications media as defined in s.  
30 106.011(13).

31

1 Section 5. Subsection (7) of section 106.141, Florida  
2 Statutes, is amended to read:

3 106.141 Disposition of surplus funds by candidates.--

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

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

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

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

20  
21 Such report shall be signed by the candidate and the campaign  
22 treasurer and certified as true and correct pursuant to s.  
23 106.07.

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

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

29 Section 6. Subsection (3) of section 106.15, Florida  
30 Statutes, is amended to read:

31 106.15 Certain acts prohibited.--

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

6           Section 7. Subsection (1) of section 106.19, Florida  
7 Statutes, is amended to read:

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

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

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

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

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

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

25  
26 is guilty of a misdemeanor of the first degree, punishable as  
27 provided in s. 775.082 or s. 775.083.

28           Section 8. If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 invalidity does not affect other provisions or applications of  
31 the act which can be given effect without the invalid

1 provision or application, and to this end the provisions of  
2 this act are severable.

3 Section 9. This act shall take effect upon becoming a  
4 law.

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7 SENATE SUMMARY

8 In ch. 106 of the Election Code:

- 9 1. Redefines the term "political committee."  
10 2. Defines the term "expressly advocates the election  
or defeat of a candidate or issue."  
11 3. Changes the fine for certain late-filed reports.  
12 4. Authorizes the use of debit cards for campaigns.  
13 5. Increases the amount for petty cash expenditures.  
14 6. Requires the filing officer to notify candidates  
before a final report is due.  
15 7. Prohibits the use of county, municipal, and district  
16 employees as well as state employees for campaign purposes  
17 during working hours.