

Amendment No.

CHAMBER ACTION

Senate

House

.

Representatives McKeel and Eisnaugle offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 2 of this act may be cited as the "Technology in Elections Act."

Section 2. Subsection (1) of section 106.143, Florida Statutes, is amended, present subsection (8) of that section is renumbered as subsection (9), and a new subsection (8) is added to that section, to read:

106.143 Political advertisements circulated prior to election; requirements.—

(1)(a) Any political advertisement that is paid for by a candidate and that is published, displayed, or circulated prior to, or on the day of, any election must prominently state:

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

16 1. "Political advertisement paid for and approved by
17 ...(name of candidate)..., ...(party affiliation)..., for
18 ...(office sought)...."; or

19 2. "Paid by ...(name of candidate)..., ...(party
20 affiliation)..., for ...(office sought)...."

21 (b) Any other political advertisement published,
22 displayed, or circulated prior to, or on the day of, any
23 election must prominently:

24 1. Be marked "paid political advertisement" or with the
25 abbreviation "pd. pol. adv."

26 2. State the name and address of the persons sponsoring
27 the advertisement.

28 3.a.(I) State whether the advertisement and the cost of
29 production is paid for or provided in kind by or at the expense
30 of the entity publishing, displaying, broadcasting, or
31 circulating the political advertisement; or

32 (II) State who provided or paid for the advertisement and
33 cost of production, if different from the source of sponsorship.

34 b. This subparagraph does not apply if the source of the
35 sponsorship is patently clear from the content or format of the
36 political advertisement.

37 (c) Any political advertisement made pursuant to s.
38 106.021(3)(d) must be marked "paid political advertisement" or
39 with the abbreviation "pd. pol. adv." and must prominently
40 state, "Paid for and sponsored by ...(name of person paying for
41 political advertisement).... Approved by ...(names of persons,
42 party affiliation, and offices sought in the political
43 advertisement)...."

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

44
45 ~~This subsection does not apply to campaign messages used by a~~
46 ~~candidate and the candidate's supporters if those messages are~~
47 ~~designed to be worn by a person.~~

48 (8) This section does not apply to any campaign message or
49 political advertisement used by a candidate and the candidate's
50 supporters or by a political committee if the message or
51 advertisement is:

52 (a) Designed to be worn by a person.

53 (b) Placed as a paid link on an Internet website, provided
54 the message or advertisement is no more than 200 characters in
55 length and the link directs the user to another Internet website
56 that complies with subsection (1).

57 (c) Placed as a graphic or picture link where compliance
58 with the requirements of this section is not reasonably
59 practical due to the size of the graphic or picture link and the
60 link directs the user to another Internet website that complies
61 with subsection (1).

62 (d) Placed at no cost on an Internet website for which
63 there is no cost to post content for public users.

64 (e) Placed or distributed on an unpaid profile or account
65 which is available to the public without charge or on a social
66 networking Internet website, as long as the source of the
67 message or advertisement is patently clear from the content or
68 format of the message or advertisement. A candidate or political
69 committee may prominently display a statement indicating that
70 the website or account is an official website or account of the
71 candidate or political committee and is approved by the

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

72 candidate or political committee. A website or account may not
73 be marked as official without prior approval by the candidate or
74 political committee.

75 (f) Distributed as a text message or other message via
76 Short Message Service, provided the message is no more than 200
77 characters in length or requires the recipient to sign up or opt
78 in to receive it.

79 (g) Connected with or included in any software application
80 or accompanying function, provided that the user signs up, opts
81 in, downloads, or otherwise accesses the application from or
82 through a website that complies with subsection (1).

83 (h) Sent by a third-party user from or through a campaign
84 or committee's website, provided the website complies with
85 subsection (1).

86 (i) Contained in or distributed through any other
87 technology-related item, service, or device for which compliance
88 with subsection (1) is not reasonably practical due to the size
89 or nature of such item, service, or device as available, or the
90 means of displaying the message or advertisement makes
91 compliance with subsection (1) impracticable.

92 (9)~~(8)~~ Any person who willfully violates any provision of
93 this section is subject to the civil penalties prescribed in s.
94 106.265.

95 Section 3. Paragraph (b) of subsection (1) of section
96 106.011, Florida Statutes, is reenacted and amended, subsections
97 (3) and (4) of that section are reenacted, subsection (14) of
98 that section is amended, and subsections (18) and (19) of that
99 section are reenacted and amended, to read:

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

100 106.011 Definitions.—As used in this chapter, the
101 following terms have the following meanings unless the context
102 clearly indicates otherwise:

103 (1)

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

107 1. Organizations which are certified by the Department of
108 State as committees of continuous existence pursuant to s.
109 106.04, national political parties, and the state and county
110 executive committees of political parties regulated by chapter
111 103.

112 2. Corporations regulated by chapter 607 or chapter 617 or
113 other business entities formed for purposes other than to
114 support or oppose issues or candidates, if their political
115 activities are limited to contributions to candidates, political
116 parties, or political committees or expenditures in support of
117 or opposition to an issue from corporate or business funds and
118 if no contributions are received by such corporations or
119 business entities.

120 3. Electioneering communications organizations as defined
121 in subsection (19); ~~however, such organizations shall be~~
122 ~~required to register with and report expenditures and~~
123 ~~contributions, including contributions received from committees~~
124 ~~of continuous existence, to the Division of Elections in the~~
125 ~~same manner, at the same time, and subject to the same penalties~~
126 ~~as a political committee supporting or opposing an issue or a~~

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

127 ~~legislative candidate, except as otherwise specifically provided~~
128 ~~in this chapter.~~

129 (3) "Contribution" means:

130 (a) A gift, subscription, conveyance, deposit, loan,
131 payment, or distribution of money or anything of value,
132 including contributions in kind having an attributable monetary
133 value in any form, made for the purpose of influencing the
134 results of an election or making an electioneering
135 communication.

136 (b) A transfer of funds between political committees,
137 between committees of continuous existence, between
138 electioneering communications organizations, or between any
139 combination of these groups.

140 (c) The payment, by any person other than a candidate or
141 political committee, of compensation for the personal services
142 of another person which are rendered to a candidate or political
143 committee without charge to the candidate or committee for such
144 services.

145 (d) The transfer of funds by a campaign treasurer or
146 deputy campaign treasurer between a primary depository and a
147 separate interest-bearing account or certificate of deposit, and
148 the term includes any interest earned on such account or
149 certificate.

150

151 Notwithstanding the foregoing meanings of "contribution," the
152 word shall not be construed to include services, including, but
153 not limited to, legal and accounting services, provided without
154 compensation by individuals volunteering a portion or all of

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

155 their time on behalf of a candidate or political committee. This
156 definition shall not be construed to include editorial
157 endorsements.

158 (4) (a) "Expenditure" means a purchase, payment,
159 distribution, loan, advance, transfer of funds by a campaign
160 treasurer or deputy campaign treasurer between a primary
161 depository and a separate interest-bearing account or
162 certificate of deposit, or gift of money or anything of value
163 made for the purpose of influencing the results of an election
164 or making an electioneering communication. However,
165 "expenditure" does not include a purchase, payment,
166 distribution, loan, advance, or gift of money or anything of
167 value made for the purpose of influencing the results of an
168 election when made by an organization, in existence prior to the
169 time during which a candidate qualifies or an issue is placed on
170 the ballot for that election, for the purpose of printing or
171 distributing such organization's newsletter, containing a
172 statement by such organization in support of or opposition to a
173 candidate or issue, which newsletter is distributed only to
174 members of such organization.

175 (b) As used in this chapter, an "expenditure" for an
176 electioneering communication is made when the earliest of the
177 following occurs:

178 1. A person enters into a contract for applicable goods or
179 services;

180 2. A person makes payment, in whole or in part, for the
181 production or public dissemination of applicable goods or
182 services; or

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

183 3. The electioneering communication is publicly
184 disseminated.

185 (14) "Filing officer" means the person before whom a
186 candidate qualifies, the agency or officer with whom a political
187 committee or an electioneering communications organization
188 registers, or the agency by whom a committee of continuous
189 existence is certified.

190 (18) (a) "Electioneering communication" means any
191 communication publicly distributed by a television station,
192 radio station, cable television system, satellite system,
193 newspaper, magazine, direct mail, or telephone ~~a paid expression~~
194 ~~in any communications media prescribed in subsection (13) by~~
195 ~~means other than the spoken word in direct conversation that:~~

196 1. Refers to or depicts a clearly identified candidate for
197 office ~~or contains a clear reference indicating that an issue is~~
198 ~~to be voted on at an election,~~ without expressly advocating the
199 election or defeat of a candidate but that is susceptible of no
200 reasonable interpretation other than an appeal to vote for or
201 against a specific candidate; ~~or the passage or defeat of an~~
202 ~~issue.~~

203 2. Is made within 30 days before a primary or special
204 primary election or 60 days before any other election for the
205 office sought by the candidate; and

206 3. ~~Is For communications referring to or depicting a~~
207 ~~clearly identified candidate for office, is targeted to the~~
208 ~~relevant electorate. A communication is considered targeted if~~
209 ~~1,000 or more persons in the geographic area the candidate would~~
210 ~~represent if elected will receive the communication.~~

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

211 ~~3. For communications containing a clear reference~~
212 ~~indicating that an issue is to be voted on at an election, is~~
213 ~~published after the issue is designated a ballot position or 120~~
214 ~~days before the date of the election on the issue, whichever~~
215 ~~occurs first.~~

216 (b) The term "electioneering communication" does not
217 include:

218 1. A communication disseminated through a means of
219 communication other than a television station, radio station,
220 cable television system, satellite system, newspaper, magazine,
221 direct mail, telephone, or statement or depiction by an
222 organization, in existence prior to the time during which a
223 candidate named or depicted qualifies or an issue identified is
224 placed on the ballot for that election, made in that
225 organization's newsletter, which newsletter is distributed only
226 to members of that organization.

227 2. A communication in a news story, commentary, or
228 editorial distributed through the facilities of any radio
229 station, television station, cable television system, or
230 satellite system, unless the facilities are owned or controlled
231 by any political party, political committee, or candidate. A
232 news story distributed through the facilities owned or
233 controlled by any political party, political committee, or
234 candidate may nevertheless be exempt if it represents a bona
235 fide news account communicated through a licensed broadcasting
236 facility and the communication is part of a general pattern of
237 campaign-related news accounts that give reasonably equal
238 coverage to all opposing candidates in the area ~~An editorial~~

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

239 ~~endorsement, news story, commentary, or editorial by any~~
240 ~~newspaper, radio, television station, or other recognized news~~
241 ~~medium.~~

242 3. A communication that constitutes a public debate or
243 forum that includes at least two opposing candidates for an
244 office or one advocate and one opponent of an issue, or that
245 solely promotes such a debate or forum and is made by or on
246 behalf of the person sponsoring the debate or forum, provided
247 that:

248 a. The staging organization is either:

249 (I) A charitable organization that does not make other
250 electioneering communications and does not otherwise support or
251 oppose any political candidate or political party; or

252 (II) A newspaper, radio station, television station, or
253 other recognized news medium; and

254 b. The staging organization does not structure the debate
255 to promote or advance one candidate or issue position over
256 another.

257 (c) For purposes of this chapter, an expenditure made for,
258 or in furtherance of, an electioneering communication shall not
259 be considered a contribution to or on behalf of any candidate.

260 (d) For purposes of this chapter, an electioneering
261 communication shall not constitute an independent expenditure
262 nor be subject to the limitations applicable to independent
263 expenditures.

264 (19) "Electioneering communications organization" means
265 any group, other than a political party, political committee, or
266 committee of continuous existence, whose election-related

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

267 activities are limited to making expenditures for electioneering
268 communications or accepting contributions for the purpose of
269 making electioneering communications and whose activities would
270 not otherwise require the group to register as a political
271 party, political committee, or committee of continuous existence
272 under this chapter.

273 Section 4. Subsection (1) of section 106.022, Florida
274 Statutes, is reenacted to read:

275 106.022 Appointment of a registered agent; duties.—

276 (1) Each political committee, committee of continuous
277 existence, or electioneering communications organization shall
278 have and continuously maintain in this state a registered office
279 and a registered agent and must file with the division a
280 statement of appointment for the registered office and
281 registered agent. The statement of appointment must:

282 (a) Provide the name of the registered agent and the
283 street address and phone number for the registered office;

284 (b) Identify the entity for whom the registered agent
285 serves;

286 (c) Designate the address the registered agent wishes to
287 use to receive mail;

288 (d) Include the entity's undertaking to inform the
289 division of any change in such designated address;

290 (e) Provide for the registered agent's acceptance of the
291 appointment, which must confirm that the registered agent is
292 familiar with and accepts the obligations of the position as set
293 forth in this section; and

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

294 (f) Contain the signature of the registered agent and the
295 entity engaging the registered agent.

296 Section 5. Paragraph (b) of subsection (1) of section
297 106.03, Florida Statutes, is reenacted and amended, and
298 subsections (2), (4), and (7) of that section are amended, to
299 read:

300 106.03 Registration of political committees and
301 electioneering communications organizations.—

302 (1)

303 (b)1. Each electioneering communications organization that
304 receives ~~anticipates receiving~~ contributions or makes ~~making~~
305 expenditures during a calendar year in an aggregate amount
306 exceeding \$5,000 shall file a statement of organization as
307 provided in subparagraph 2. ~~subsection (3)~~ by expedited delivery
308 within 24 hours after its organization or, if later, within 24
309 hours after the date on which it receives ~~has information that~~
310 ~~causes the organization to anticipate that it will receive~~
311 contributions or makes ~~make~~ expenditures for an electioneering
312 communication in excess of \$5,000.

313 2.a. In a statewide, legislative, or multicounty election,
314 an electioneering communications organization shall file a
315 statement of organization with the Division of Elections.

316 b. In a countywide election or any election held on less
317 than a countywide basis, except as described in sub-subparagraph
318 c., an electioneering communications organization shall file a
319 statement of organization with the supervisor of elections of
320 the county in which the election is being held.

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

321 c. In a municipal election, an electioneering
322 communications organization shall file a statement of
323 organization with the officer before whom municipal candidates
324 qualify.

325 d. Any electioneering communications organization that
326 would be required to file a statement of organization in two or
327 more locations by reason of the organization's intention to
328 support or oppose candidates at state or multicounty and local
329 levels of government need only file a statement of organization
330 with the Division of Elections.

331 (2) The statement of organization shall include:

332 (a) The name, mailing address, and street address of the
333 committee or electioneering communications organization;

334 (b) The names, street addresses, and relationships of
335 affiliated or connected organizations;

336 (c) The area, scope, or jurisdiction of the committee or
337 electioneering communications organization;

338 (d) The name, mailing address, street address, and
339 position of the custodian of books and accounts;

340 (e) The name, mailing address, street address, and
341 position of other principal officers, including the treasurer
342 and deputy treasurer ~~including officers and members of the~~
343 ~~finance committee~~, if any;

344 (f) The name, address, office sought, and party
345 affiliation of:

346 1. Each candidate whom the committee is supporting;

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

347 2. Any other individual, if any, whom the committee is
348 supporting for nomination for election, or election, to any
349 public office whatever;

350 (g) Any issue or issues the committee ~~such organization~~ is
351 supporting or opposing;

352 (h) If the committee is supporting the entire ticket of
353 any party, a statement to that effect and the name of the party;

354 (i) A statement of whether the committee is a continuing
355 one;

356 (j) Plans for the disposition of residual funds which will
357 be made in the event of dissolution;

358 (k) A listing of all banks, safe-deposit boxes, or other
359 depositories used for committee or electioneering communications
360 organization funds; ~~and~~

361 (l) A statement of the reports required to be filed by the
362 committee or the electioneering communications organization with
363 federal officials, if any, and the names, addresses, and
364 positions of such officials; and

365 (m) A statement of whether the electioneering
366 communications organization was formed as a newly created
367 organization during the current calendar quarter or was formed
368 from an organization existing prior to the current calendar
369 quarter. For purposes of this subsection, calendar quarters end
370 the last day of March, June, September, and December.

371 (4) Any change in information previously submitted in a
372 statement of organization shall be reported to the agency or
373 officer with whom such committee or electioneering

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

374 communications organization is required to register ~~pursuant to~~
375 ~~subsection (3)~~, within 10 days following the change.

376 (7) The Division of Elections shall adopt ~~promulgate~~ rules
377 to prescribe the manner in which ~~inactive~~ committees and
378 electioneering communications organizations may be dissolved and
379 have their registration canceled. Such rules shall, at a
380 minimum, provide for:

381 (a) Notice which shall contain the facts and conduct which
382 warrant the intended action, including but not limited to
383 failure to file reports and limited activity.

384 (b) Adequate opportunity to respond.

385 (c) Appeal of the decision to the Florida Elections
386 Commission. Such appeals shall be exempt from the
387 confidentiality provisions of s. 106.25.

388 Section 6. Subsection (5) of section 106.04, Florida
389 Statutes, is reenacted to read:

390 106.04 Committees of continuous existence.—

391 (5) No committee of continuous existence shall make an
392 electioneering communication, contribute to any candidate or
393 political committee an amount in excess of the limits contained
394 in s. 106.08(1), or participate in any activity which is
395 prohibited by this chapter. If any violation occurs, it shall be
396 punishable as provided in this chapter for the given offense. No
397 funds of a committee of continuous existence shall be expended
398 on behalf of a candidate, except by means of a contribution made
399 through the duly appointed campaign treasurer of a candidate. No
400 such committee shall make expenditures in support of, or in
401 opposition to, an issue unless such committee first registers as
602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

402 a political committee pursuant to this chapter and undertakes
403 all the practices and procedures required thereof; provided such
404 committee may make contributions in a total amount not to exceed
405 25 percent of its aggregate income, as reflected in the annual
406 report filed for the previous year, to one or more political
407 committees registered pursuant to s. 106.03 and formed to
408 support or oppose issues.

409 Section 7. Section 106.0703, Florida Statutes, is
410 reenacted and amended to read:

411 106.0703 Electioneering communications organizations;
412 ~~additional reporting requirements; certification and filing;~~
413 penalties.—

414 (1) (a) Each electioneering communications organization
415 shall file regular reports of all contributions received and all
416 expenditures made by or on behalf of the organization. Reports
417 shall be filed on the 10th day following the end of each
418 calendar quarter from the time the organization is registered.
419 However, if the 10th day following the end of a calendar quarter
420 occurs on a Saturday, Sunday, or legal holiday, the report shall
421 be filed on the next following day that is not a Saturday,
422 Sunday, or legal holiday. Quarterly reports shall include all
423 contributions received and expenditures made during the calendar
424 quarter that have not otherwise been reported pursuant to this
425 section.

426 (b) Following the last day of candidates qualifying for
427 office, the reports shall be filed on the 32nd, 18th, and 4th
428 days immediately preceding the primary election and on the 46th,

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

429 32nd, 18th, and 4th days immediately preceding the general
430 election.

431 (c) When a special election is called to fill a vacancy in
432 office, all electioneering communications organizations making
433 contributions or expenditures to influence the results of the
434 special election shall file reports with the filing officer on
435 the dates set by the Department of State pursuant to s. 100.111.

436 (d) In addition to the reports required by paragraph (a),
437 an electioneering communications organization that is registered
438 with the Department of State and that makes a contribution or
439 expenditure to influence the results of a county or municipal
440 election that is not being held at the same time as a state or
441 federal election must file reports with the county or municipal
442 filing officer on the same dates as county or municipal
443 candidates or committees for that election. The electioneering
444 communications organization must also include the expenditure in
445 the next report filed with the Division of Elections pursuant to
446 this section following the county or municipal election.

447 (e) The filing officer shall make available to each
448 electioneering communications organization a schedule
449 designating the beginning and end of reporting periods as well
450 as the corresponding designated due dates.

451 (2) (a) Except as provided in s. 106.0705, the reports
452 required of an electioneering communications organization shall
453 be filed with the filing officer not later than 5 p.m. of the
454 day designated. However, any report postmarked by the United
455 States Postal Service no later than midnight of the day
456 designated shall be deemed to have been filed in a timely

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

457 manner. Any report received by the filing officer within 5 days
458 after the designated due date that was delivered by the United
459 States Postal Service shall be deemed timely filed unless it has
460 a postmark that indicates that the report was mailed after the
461 designated due date. A certificate of mailing obtained from and
462 dated by the United States Postal Service at the time of
463 mailing, or a receipt from an established courier company, which
464 bears a date on or before the date on which the report is due,
465 shall be proof of mailing in a timely manner. Reports shall
466 contain information of all previously unreported contributions
467 received and expenditures made as of the preceding Friday,
468 except that the report filed on the Friday immediately preceding
469 the election shall contain information of all previously
470 unreported contributions received and expenditures made as of
471 the day preceding the designated due date. All such reports
472 shall be open to public inspection.

473 (b)1. Any report that is deemed to be incomplete by the
474 officer with whom the electioneering communications organization
475 files shall be accepted on a conditional basis. The treasurer of
476 the electioneering communications organization shall be
477 notified, by certified mail or other common carrier that can
478 establish proof of delivery for the notice, as to why the report
479 is incomplete. Within 7 days after receipt of such notice, the
480 treasurer must file an addendum to the report providing all
481 information necessary to complete the report in compliance with
482 this section. Failure to file a complete report after such
483 notice constitutes a violation of this chapter.

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

484 2. Notice is deemed sufficient upon proof of delivery of
485 written notice to the mailing or street address of the treasurer
486 or registered agent of the electioneering communication
487 organization on record with the filing officer.

488 (3) (a) Each report required by this section must contain:

489 1. The full name, address, and occupation, if any, of each
490 person who has made one or more contributions to or for such
491 electioneering communications organization within the reporting
492 period, together with the amount and date of such contributions.
493 For corporations, the report must provide as clear a description
494 as practicable of the principal type of business conducted by
495 the corporation. However, if the contribution is \$100 or less,
496 the occupation of the contributor or the principal type of
497 business need not be listed.

498 2. The name and address of each political committee from
499 which or to which the reporting electioneering communications
500 organization made any transfer of funds, together with the
501 amounts and dates of all transfers.

502 3. Each loan for electioneering communication purposes to
503 or from any person or political committee within the reporting
504 period, together with the full names, addresses, and occupations
505 and principal places of business, if any, of the lender and
506 endorsers, if any, and the date and amount of such loans.

507 4. A statement of each contribution, rebate, refund, or
508 other receipt not otherwise listed under subparagraphs 1.-3.

509 5. The total sums of all loans, in-kind contributions, and
510 other receipts by or for such electioneering communications
511 organization during the reporting period. The reporting forms

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

512 shall be designed to elicit separate totals for in-kind
513 contributions, loans, and other receipts.

514 6. The full name and address of each person to whom
515 expenditures have been made by or on behalf of the
516 electioneering communications organization within the reporting
517 period and the amount, date, and purpose of each expenditure.

518 7. The full name and address of each person to whom an
519 expenditure for personal services, salary, or reimbursement for
520 expenses has been made and that is not otherwise reported,
521 including the amount, date, and purpose of the expenditure.

522 8. The total sum of expenditures made by the
523 electioneering communications organization during the reporting
524 period.

525 9. The amount and nature of debts and obligations owed by
526 or to the electioneering communications organization that relate
527 to the conduct of any electioneering communication.

528 10. Transaction information for each credit card purchase.
529 Receipts for each credit card purchase shall be retained by the
530 electioneering communications organization.

531 11. The amount and nature of any separate interest-bearing
532 accounts or certificates of deposit and identification of the
533 financial institution in which such accounts or certificates of
534 deposit are located.

535 12. The primary purposes of an expenditure made indirectly
536 through an electioneering communications organization for goods
537 and services, such as communications media placement or
538 procurement services and other expenditures that include
539 multiple components as part of the expenditure. The primary

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

540 purpose of an expenditure shall be that purpose, including
541 integral and directly related components, that comprises 80
542 percent of such expenditure.

543 (b) The filing officer shall make available to any
544 electioneering communications organization a reporting form
545 which the electioneering communications organization may use to
546 indicate contributions received by the electioneering
547 communications organization but returned to the contributor
548 before deposit.

549 (4) The treasurer of the electioneering communications
550 organization shall certify as to the correctness of each report,
551 and each person so certifying shall bear the responsibility for
552 the accuracy and veracity of each report. Any treasurer who
553 willfully certifies the correctness of any report while knowing
554 that such report is incorrect, false, or incomplete commits a
555 misdemeanor of the first degree, punishable as provided in s.
556 775.082 or s. 775.083.

557 (5) The electioneering communications organization
558 depository shall provide statements reflecting deposits and
559 expenditures from the account to the treasurer, who shall retain
560 the records pursuant to s. 106.06. The records maintained by the
561 depository with respect to the account shall be subject to
562 inspection by an agent of the Division of Elections or the
563 Florida Elections Commission at any time during normal banking
564 hours, and such depository shall furnish certified copies of any
565 such records to the Division of Elections or the Florida
566 Elections Commission upon request.

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

567 (6) Notwithstanding any other provisions of this chapter,
568 in any reporting period during which an electioneering
569 communications organization has not received funds, made any
570 contributions, or expended any reportable funds, the treasurer
571 shall file a written report with the filing officer by the
572 prescribed reporting date that no reportable contributions or
573 expenditures were made during the reporting period.

574 (7) (a) Any electioneering communications organization
575 failing to file a report on the designated due date shall be
576 subject to a fine as provided in paragraph (b) for each late
577 day. The fine shall be assessed by the filing officer and the
578 moneys collected shall be deposited:

579 1. In the General Revenue Fund, in the case of an
580 electioneering communications organization that registers with
581 the Division of Elections; or

582 2. In the general revenue fund of the political
583 subdivision, in the case of an electioneering communications
584 organization that registers with an officer of a political
585 subdivision.

586
587 No separate fine shall be assessed for failure to file a copy of
588 any report required by this section.

589 (b) Upon determining that a report is late, the filing
590 officer shall immediately notify the electioneering
591 communications organization as to the failure to file a report
592 by the designated due date and that a fine is being assessed for
593 each late day. The fine shall be \$50 per day for the first 3
594 days late and, thereafter, \$500 per day for each late day, not

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

595 to exceed 25 percent of the total receipts or expenditures,
596 whichever is greater, for the period covered by the late report.
597 However, for the reports immediately preceding each primary and
598 general election, the fine shall be \$500 per day for each late
599 day, not to exceed 25 percent of the total receipts or
600 expenditures, whichever is greater, for the period covered by
601 the late report. Upon receipt of the report, the filing officer
602 shall determine the amount of the fine which is due and shall
603 notify the electioneering communications organization. The
604 filing officer shall determine the amount of the fine due based
605 upon the earliest of the following:

- 606 1. When the report is actually received by such officer.
- 607 2. When the report is postmarked.
- 608 3. When the certificate of mailing is dated.
- 609 4. When the receipt from an established courier company is
610 dated.
- 611 5. When the electronic receipt issued pursuant to s.
612 106.0705 or other electronic filing system authorized in this
613 section is dated.

614

615 Such fine shall be paid to the filing officer within 20 days
616 after receipt of the notice of payment due, unless appeal is
617 made to the Florida Elections Commission pursuant to paragraph
618 (c). Notice is deemed sufficient upon proof of delivery of
619 written notice to the mailing or street address on record with
620 the filing officer. An officer or member of an electioneering
621 communications organization shall not be personally liable for
622 such fine.

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

623 (c) The treasurer of an electioneering communications
624 organization may appeal or dispute the fine, based upon, but not
625 limited to, unusual circumstances surrounding the failure to
626 file on the designated due date, and may request and shall be
627 entitled to a hearing before the Florida Elections Commission,
628 which shall have the authority to waive the fine in whole or in
629 part. The Florida Elections Commission must consider the
630 mitigating and aggravating circumstances contained in s.
631 106.265(1) when determining the amount of a fine, if any, to be
632 waived. Any such request shall be made within 20 days after
633 receipt of the notice of payment due. In such case, the
634 treasurer of the electioneering communications organization
635 shall, within the 20-day period, notify the filing officer in
636 writing of his or her intention to bring the matter before the
637 commission.

638 (d) The appropriate filing officer shall notify the
639 Florida Elections Commission of the repeated late filing by an
640 electioneering communications organization, the failure of an
641 electioneering communications organization to file a report
642 after notice, or the failure to pay the fine imposed. The
643 commission shall investigate only those alleged late filing
644 violations specifically identified by the filing officer and as
645 set forth in the notification. Any other alleged violations must
646 be stated separately and reported by the division to the
647 commission under s. 106.25(2).

648 ~~(8) In addition to the reporting requirements in s.~~
649 ~~106.07,~~ An electioneering communications organization shall,
650 within 2 days after receiving its initial password or secure
602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

651 sign-on from the Department of State allowing confidential
652 access to the department's electronic campaign finance filing
653 system, electronically file the periodic ~~campaign finance~~
654 reports that would have been required pursuant to this section
655 ~~s. 106.07~~ for reportable activities that occurred since the date
656 of the last general election.

657 Section 8. Paragraph (b) of subsection (2) of section
658 106.0705, Florida Statutes, is reenacted, and subsections (3)
659 and (4) of that section are amended, to read:

660 106.0705 Electronic filing of campaign treasurer's
661 reports.—

662 (2)

663 (b) Each political committee, committee of continuous
664 existence, electioneering communications organization, or state
665 executive committee that is required to file reports with the
666 division under s. 106.04, s. 106.07, s. 106.0703, or s. 106.29,
667 as applicable, must file such reports with the division by means
668 of the division's electronic filing system.

669 (3) Reports filed pursuant to this section shall be
670 completed and filed through the electronic filing system not
671 later than midnight of the day designated. Reports not filed by
672 midnight of the day designated are late filed and are subject to
673 the penalties under s. 106.04(8), s. 106.07(8), s. 106.0703(7),
674 or s. 106.29(3), as applicable.

675 (4) Each report filed pursuant to this section is
676 considered to be under oath by the candidate and treasurer, ~~or~~
677 the chair and treasurer, or the treasurer under s. 106.0703,
678 whichever is applicable, and such persons are subject to the

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

679 provisions of s. 106.04(4)(d), s. 106.07(5), s. 106.0703(4), or
680 s. 106.29(2), as applicable. Persons given a secure sign-on to
681 the electronic filing system are responsible for protecting such
682 from disclosure and are responsible for all filings using such
683 credentials, unless they have notified the division that their
684 credentials have been compromised.

685 Section 9. Subsection (1) of section 106.071, Florida
686 Statutes, is reenacted and amended to read:

687 106.071 Independent expenditures; electioneering
688 communications; reports; disclaimers.-

689 (1) Each person who makes an independent expenditure with
690 respect to any candidate or issue, and each individual who makes
691 an expenditure for an electioneering communication which is not
692 otherwise reported pursuant to this chapter, which expenditure,
693 in the aggregate, is in the amount of \$5,000 ~~\$100~~ or more, shall
694 file periodic reports of such expenditures in the same manner,
695 at the same time, subject to the same penalties, and with the
696 same officer as a political committee supporting or opposing
697 such candidate or issue. The report shall contain the full name
698 and address of the person making the expenditure; the full name
699 and address of each person to whom and for whom each such
700 expenditure has been made; the amount, date, and purpose of each
701 such expenditure; a description of the services or goods
702 obtained by each such expenditure; the issue to which the
703 expenditure relates; and the name and address of, and office
704 sought by, each candidate on whose behalf such expenditure was
705 made.

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

706 Section 10. Subsections (4) and (5) of section 106.08,
707 Florida Statutes, are amended, and subsection (7) of that
708 section is reenacted, to read:

709 106.08 Contributions; limitations on.—

710 (4) ~~(a)~~ Any contribution received by the chair, campaign
711 treasurer, or deputy campaign treasurer of a political committee
712 supporting or opposing a candidate with opposition in an
713 election or supporting or opposing an issue on the ballot in an
714 election on the day of that election or less than 5 days prior
715 to the day of that election may not be obligated or expended by
716 the committee until after the date of the election.

717 ~~(b) Any contribution received by an electioneering~~
718 ~~communications organization on the day of an election or less~~
719 ~~than 5 days prior to the day of that election may not be~~
720 ~~obligated or expended by the organization until after the date~~
721 ~~of the election and may not be expended to pay for any~~
722 ~~obligation arising prior to the election.~~

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

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

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

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

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

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

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

745 ~~(d) An electioneering communications organization may not~~
746 ~~accept a contribution from an organization exempt from taxation~~
747 ~~under s. 527 or s. 501(c)(4) of the Internal Revenue Code, other~~
748 ~~than a political committee, committee of continuous existence,~~
749 ~~or political party, unless the contributing organization has~~
750 ~~registered as if the organization were an electioneering~~
751 ~~communications organization pursuant to s. 106.03 and has filed~~
752 ~~all campaign finance reports required of electioneering~~
753 ~~communications organizations pursuant to ss. 106.07 and~~
754 ~~106.0703.~~

755 (7) (a) Any person who knowingly and willfully makes or
756 accepts no more than one contribution in violation of subsection
757 (1) or subsection (5), or any person who knowingly and willfully
758 fails or refuses to return any contribution as required in
759 subsection (3), commits a misdemeanor of the first degree,
760 punishable as provided in s. 775.082 or s. 775.083. If any
761 corporation, partnership, or other business entity or any
602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

762 political party, political committee, committee of continuous
763 existence, or electioneering communications organization is
764 convicted of knowingly and willfully violating any provision
765 punishable under this paragraph, it shall be fined not less than
766 \$1,000 and not more than \$10,000. If it is a domestic entity, it
767 may be ordered dissolved by a court of competent jurisdiction;
768 if it is a foreign or nonresident business entity, its right to
769 do business in this state may be forfeited. Any officer,
770 partner, agent, attorney, or other representative of a
771 corporation, partnership, or other business entity, or of a
772 political party, political committee, committee of continuous
773 existence, electioneering communications organization, or
774 organization exempt from taxation under s. 527 or s. 501(c)(4)
775 of the Internal Revenue Code, who aids, abets, advises, or
776 participates in a violation of any provision punishable under
777 this paragraph commits a misdemeanor of the first degree,
778 punishable as provided in s. 775.082 or s. 775.083.

779 (b) Any person who knowingly and willfully makes or
780 accepts two or more contributions in violation of subsection (1)
781 or subsection (5) commits a felony of the third degree,
782 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
783 If any corporation, partnership, or other business entity or any
784 political party, political committee, committee of continuous
785 existence, or electioneering communications organization is
786 convicted of knowingly and willfully violating any provision
787 punishable under this paragraph, it shall be fined not less than
788 \$10,000 and not more than \$50,000. If it is a domestic entity,
789 it may be ordered dissolved by a court of competent

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

790 jurisdiction; if it is a foreign or nonresident business entity,
791 its right to do business in this state may be forfeited. Any
792 officer, partner, agent, attorney, or other representative of a
793 corporation, partnership, or other business entity, or of a
794 political committee, committee of continuous existence,
795 political party, or electioneering communications organization,
796 or organization exempt from taxation under s. 527 or s.
797 501(c)(4) of the Internal Revenue Code, who aids, abets,
798 advises, or participates in a violation of any provision
799 punishable under this paragraph commits a felony of the third
800 degree, punishable as provided in s. 775.082, s. 775.083, or s.
801 775.084.

802 Section 11. Section 106.1437, Florida Statutes, is
803 reenacted to read:

804 106.1437 Miscellaneous advertisements.—Any advertisement,
805 other than a political advertisement, independent expenditure,
806 or electioneering communication, on billboards, bumper stickers,
807 radio, or television, or in a newspaper, a magazine, or a
808 periodical, intended to influence public policy or the vote of a
809 public official, shall clearly designate the sponsor of such
810 advertisement by including a clearly readable statement of
811 sponsorship. If the advertisement is broadcast on television,
812 the advertisement shall also contain a verbal statement of
813 sponsorship. This section shall not apply to an editorial
814 endorsement.

815 Section 12. Section 106.1439, Florida Statutes, is
816 reenacted and amended to read:

817 106.1439 Electioneering communications; disclaimers.—
602599

Amendment No.

818 (1) Any electioneering communication, other than a
819 telephone call, shall prominently state: "Paid electioneering
820 communication paid for by ... (Name and address of person paying
821 for the communication)...."

822 (2) Any electioneering communication telephone call shall
823 identify the persons or organizations sponsoring the call by
824 stating either: "Paid for by ... (insert name of persons or
825 organizations sponsoring the call)...." or "Paid for on behalf
826 of ... (insert name of persons or organizations authorizing
827 call)...." This subsection does not apply to any telephone call
828 in which the individual making the call is not being paid and
829 the individuals participating in the call know each other prior
830 to the call.

831 (3) (2) Any person who fails to include the disclaimer
832 prescribed in this section in any electioneering communication
833 that is required to contain such disclaimer commits a
834 misdemeanor of the first degree, punishable as provided in s.
835 775.082 or s. 775.083.

836 Section 13. Paragraphs (a) and (e) of subsection (1) of
837 section 106.147, Florida Statutes, are amended to read:

838 106.147 Telephone solicitation; disclosure requirements;
839 prohibitions; exemptions; penalties.-

840 (1) (a) ~~Any electioneering communication telephone call or~~
841 ~~any~~ telephone call supporting or opposing a candidate, elected
842 public official, or ballot proposal must identify the persons or
843 organizations sponsoring the call by stating either: "paid for
844 by ____" (insert name of persons or organizations sponsoring
845 the call) or "paid for on behalf of ____" (insert name of
602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

846 persons or organizations authorizing call). This paragraph does
847 not apply to any telephone call in which both the individual
848 making the call is not being paid and the individuals
849 participating in the call know each other prior to the call.

850 ~~(c) Any electioneering communication paid for with public~~
851 ~~funds must include a disclaimer containing the words "paid for~~
852 ~~by ... (Name of the government entity paying for the~~
853 ~~communication)...."~~

854 Section 14. Section 106.17, Florida Statutes, is reenacted
855 to read:

856 106.17 Polls and surveys relating to candidacies.—Any
857 candidate, political committee, committee of continuous
858 existence, electioneering communication organization, or state
859 or county executive committee of a political party may authorize
860 or conduct a political poll, survey, index, or measurement of
861 any kind relating to candidacy for public office so long as the
862 candidate, political committee, committee of continuous
863 existence, electioneering communication organization, or
864 political party maintains complete jurisdiction over the poll in
865 all its aspects.

866 Section 15. This act shall take effect upon becoming a
867 law.

868
869
870 -----

T I T L E A M E N D M E N T

871 Remove the entire title and insert:

872 A bill to be entitled

602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

874 An act relating to campaign financing; providing a short title;
875 amending s. 106.143, F.S.; providing an alternative statement
876 that may be used to identify a candidate as the sponsor of a
877 political advertisement under certain circumstances; providing
878 circumstances under which certain campaign messages and
879 political advertisements are not required to state or display
880 specific information regarding the identity of the candidate,
881 his or her party affiliation, and the office sought in the
882 message or advertisement; authorizing a candidate or political
883 committee to place a statement on a social networking website or
884 account indicating that the site or account is an official site
885 or account approved by the candidate or political committee;
886 prohibiting an official designation without the prior approval
887 by the candidate or political committee; amending s. 106.011,
888 F.S.; revising the definition of the term "political committee"
889 to remove certain reporting requirements included in the
890 exclusion of electioneering communications organizations from
891 the definition; revising the definition of the term "filing
892 officer" to expand applicability to electioneering
893 communications organizations; revising the definition of the
894 term "electioneering communication" to conform to certain
895 federal requirements and to delineate what constitutes such a
896 communication; revising the definition of the term
897 "electioneering communications organization"; amending s.
898 106.03, F.S.; revising the registration requirements for
899 electioneering communications organizations; revising the
900 statement of organization requirements; revising rule adoption
901 requirements relating to dissolution of political committees and
602599

Approved For Filing: 4/20/2010 1:42:26 PM

Amendment No.

902 | electioneering communications organizations; amending s.
903 | 106.0703, F.S.; consolidating reporting requirements in ch. 106,
904 | F.S., applicable to electioneering communications organizations;
905 | providing penalties; conforming provisions; amending s.
906 | 106.0705, F.S., relating to electronic filing of campaign
907 | treasurer's reports; conforming provisions; amending s. 106.071,
908 | F.S.; increasing the aggregate amount of expenditures required
909 | for filing certain reports related to independent expenditures
910 | or electioneering communications; amending s. 106.08, F.S.;
911 | removing certain limitations on contributions received by an
912 | electioneering communications organization; amending s.
913 | 106.1439, F.S.; providing identification requirements for
914 | certain electioneering communications; providing an exception
915 | for telephone calls; amending s. 106.147, F.S., relating to
916 | telephone solicitation disclosure requirements; removing
917 | requirements relating to electioneering communication, to
918 | conform; reenacting ss. 106.011(1)(b), (3), (4), (18), and (19),
919 | 106.022(1), 106.03(1)(b), 106.04(5), 106.0703, 106.0705(2)(b),
920 | 106.071(1), 106.08(7), 106.1437, 106.1439, and 106.17, F.S.,
921 | relating to definitions, registered office and agent
922 | requirements, registration requirements, prohibited activities
923 | for committees of continuous existence, additional reporting
924 | requirements, electronic filing requirements, expenditure
925 | reports, penalties for violations pertaining to limitations on
926 | contributions, miscellaneous advertisements, electioneering
927 | communications disclaimers and penalties for failure to include
928 | disclaimers, and polls and surveys pertaining to candidacies, to
929 | cure and conform; providing an effective date.

602599

Approved For Filing: 4/20/2010 1:42:26 PM