

Date Printed: 01/07/2009

JTS Box Number: IFES_25
Tab Number: 31
Document Title: FLORIDA DEPARTMENT OF STATE DIVISION OF
ELECTIONS - CHAPTER 106 FLORIDA STATUTES
Document Date: 1993
Document Country: USA
Document Language: ENG
IFES ID: EL00529



CHAPTER
106
FLORIDA STATUTES



FLORIDA DEPARTMENT OF STATE
Division of Elections
Jim Smith
Secretary of State

June, 1993

CHAPTER 106

CAMPAIGN FINANCING

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- 106.011 Definitions.**—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:
- (1) "Political committee" means a combination of two or more individuals, or a person other than an individual, the primary or incidental purpose of which is to support or oppose any candidate, issue, or political party, which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$500; "political committee" also means the sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors. Organizations which are certified by the Department of State as committees of continuous existence pursuant to s. 106.04, national political parties, and the state and county executive committees of political parties regulated by chapter 103 shall not be considered political committees for the purposes of this chapter. Corporations regulated by chapter 607 or chapter 617 or other business entities formed for purposes other than to support or oppose issues or candidates are not political committees if their political activities are limited to contributions to candidates, political parties, or political committees or expenditures in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities.
- (2) "Committee of continuous existence" means any group, organization, association, or other such entity which is certified pursuant to the provisions of s. 106.04.
- (3) "Contribution" means:
- (a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election.
- (b) A transfer of funds between political committees, between committees of continuous existence, or between a political committee and a committee of continuous existence.
- (c) The payment, by any person other than a candidate or political committee, of compensation for the per-

sonal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

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

Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee. This definition shall not be construed to include editorial endorsements.

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

(5) "Independent expenditure" means an expenditure by a person for the purpose of advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee. An expenditure for such purpose by a person having a contract with the candidate, political committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure.

(6) "Election" means any primary election, special primary election, general election, special election, or municipal election held in this state for the purpose of nominating or electing candidates to public office, choosing delegates to the national nominating conventions of political parties, or submitting an issue to the electors for their approval or rejection.

(7) "Issue" means any proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election.

(8) "Person" means an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity.

(9) "Campaign treasurer" means an individual appointed by a candidate or political committee as provided in this chapter.

(10) "Public office" means any state, county, municipal, or school or other district office or position which is filled by vote of the electors.

(11) "Campaign fund raiser" means any affair held to raise funds to be used in a campaign for public office.

(12) "Division" means the Division of Elections of the Department of State.

(13) "Communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mailing companies, advertising agencies, and telephone companies; but with respect to telephones, an expenditure shall be deemed to be an expenditure for the use of communications media only if made for the costs of telephones, paid telephonists, or automatic telephone equipment to be used by a candidate or a political committee to communicate with potential voters but excluding any costs of telephones incurred by a volunteer for use of telephones by such volunteer.

(14) "Filing officer" means the person before whom a candidate qualifies, the agency or officer with whom a political committee registers, or the agency by whom a committee of continuous existence is certified.

(15) "Unopposed candidate" means a candidate for nomination or election to an office who, after the last day on which any person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a result of any primary election or of withdrawal by other candidates seeking the same office. A candidate is not an unopposed candidate if there is a vacancy to be filled under s. 100.111(4), if there is a legal proceeding pending regarding the right to a ballot position for the office sought by the candidate, or if the candidate is seeking retention as a justice of the Supreme Court or as a judge of a district court of appeal.

(16) "Candidate" means any person to whom any one or more of the following apply:

(a) Any person who seeks to qualify for nomination or election by means of the petitioning process.

(b) Any person who seeks to qualify for election as a write-in candidate.

(c) Any person who receives contributions or makes expenditures, or gives his consent for any other person to receive contributions or make expenditures, with a view to bring about his nomination or election to, or retention in, public office.

(d) Any person who appoints a treasurer and designates a primary depository.

(e) Any person who files qualification papers and subscribes to a candidate's oath as required by law.

However, this definition does not include any candidate for a political party executive committee.

(17) "Political advertisement" means a paid expression in any communications media prescribed in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which shall support or oppose any candi-

date, elected public official, or issue. However, political advertisement does not include:

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

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

History.—s. 1, ch. 73-128; s. 1, ch. 74-200; s. 1, ch. 77-174; s. 39, ch. 77-175; s. 2, ch. 79-157; ss. 6, 17, ch. 79-365; s. 1, ch. 79-378; s. 22, ch. 81-304; s. 34, ch. 84-302; s. 4, ch. 85-226; s. 2, ch. 89-256; s. 1, ch. 89-537; s. 24, ch. 90-315; s. 9, ch. 91-107.

106.021 Campaign treasurers; deputies; primary and secondary depositories.—

(1)(a) Each candidate for nomination or election to office and each political committee shall appoint a campaign treasurer. Each person who seeks to qualify for nomination or election to, or retention in, office shall appoint a campaign treasurer and designate a primary campaign depository prior to qualifying for office. Any person who seeks to qualify for election or nomination to any office by means of the petitioning process shall appoint a treasurer and designate a primary depository on or before the date he obtains the petitions. Each candidate shall at the same time he designates his campaign depository and appoints his treasurer also designate the office for which he is a candidate. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate for which group or district office he is running. Nothing in this subsection shall prohibit a candidate, at a later date, from changing the designation of the office for which he is a candidate. However, if a candidate changes the designated office for which he is a candidate, he must notify all contributors in writing of his intent to seek a different office and offer to return pro rata, upon their request, those contributions given in support of the original office sought. This notification shall be given within 15 days after the filing of the change of designation and shall include a standard form developed by the Division of Elections for requesting the return of contributions. The notice requirement shall not apply to any change in a numerical designation resulting solely from redistricting. If, within 30 days after being notified by the candidate of his intent to seek a different office, the contributor notifies the candidate in writing that he wishes his contribution to be returned, the candidate shall return the contribution, on a pro rata basis, calculated as of the date the change of designation is filed. Any contributions not requested to be returned within the 30-day period may be used by the candidate for the newly designated office. No person shall accept any contribution or make any expenditure with a view to bringing about his nomination, election, or retention in public office, or authorize another to accept such contributions or make such expenditure on his behalf, unless such person has appointed a campaign treasurer and designated a primary campaign depository. A candidate for an office voted upon statewide may appoint not more than 15 deputy campaign treasurers, and any other candidate or

political committee may appoint not more than 3 deputy campaign treasurers. The names and addresses of the campaign treasurer and deputy campaign treasurers so appointed shall be filed with the officer before whom such candidate is required to qualify or with whom such political committee is required to register pursuant to s. 106.03. Each candidate who qualifies with the Department of State for an office not voted upon statewide shall, at the same time, file a copy of the name and address of the campaign treasurer with the supervisor of elections in the county in which the candidate resides.

(b) Except as provided in paragraph (d), each candidate and each political committee shall also designate one primary campaign depository for the purpose of depositing all contributions received, and disbursing all expenditures made, by the candidate or political committee. The candidate or political committee may also designate one secondary depository in each county in which an election is held in which the candidate or committee participates. Secondary depositories shall be for the sole purpose of depositing contributions and forwarding the deposits to the primary campaign depository. Any bank, savings and loan association, or credit union authorized to transact business in this state may be designated as a campaign depository. The candidate or political committee shall file the name and address of each primary and secondary depository so designated at the same time that, and with the same officer with whom, the candidate or committee files the name of his or its campaign treasurer pursuant to paragraph (a). In addition, the campaign treasurer or a deputy campaign treasurer may deposit any funds which are in the primary campaign depository and which are not then currently needed for the disbursement of expenditures into a separate interest-bearing account in any bank, savings and loan association, or credit union authorized to transact business in this state. The separate interest-bearing account shall be designated "(name of candidate or committee) separate interest-bearing campaign account." In lieu thereof, the campaign treasurer or deputy campaign treasurer may purchase a certificate of deposit with such unneeded funds in such bank, savings and loan association, or credit union. The separate interest-bearing account or certificate of deposit shall be separate from any personal or other account or certificate of deposit. Any withdrawal of the principal or earned interest or any part thereof shall only be made from the separate interest-bearing account or certificate of deposit for the purpose of transferring funds to the primary account and shall be reported as a contribution.

(c) Any campaign treasurer or deputy treasurer appointed pursuant to this section shall be a registered voter in this state and shall, before such appointment may become effective, have accepted appointment to such position in writing and filed such acceptance with the officer before whom the candidate is required to qualify or with the officer with whom the political committee is required to file reports. An individual may be appointed and serve as campaign treasurer of a candidate and a political committee or two or more candidates and political committees. A candidate may appoint himself as his own campaign treasurer.

(d) Any political committee which deposits all contributions received in a national depository from which the political committee receives funds to contribute to state and local candidates shall not be required to designate a campaign depository in the state.

(2) A candidate or political committee may remove his or its campaign treasurer or any deputy treasurer. In case of the death, resignation, or removal of a campaign treasurer before compliance with all obligations of a campaign treasurer under this chapter, the candidate or political committee shall appoint a successor and certify the name and address of the successor in the manner provided in the case of an original appointment. No resignation shall be effective until it has been submitted to the candidate or committee in writing and a copy thereof has been filed with the officer before whom the candidate is required to qualify or the officer with whom the political committee is required to file reports. No treasurer or deputy treasurer shall be deemed removed by a candidate or political committee until written notice of such removal has been given to such treasurer or deputy treasurer and has been filed with the officer before whom such candidate is required to qualify or with the officer with whom such committee is required to file reports.

(3) Except for independent expenditures, no contribution or expenditure, including contributions or expenditures of a candidate himself or of his family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state or on behalf of any political committee except through the duly appointed campaign treasurer of the candidate or political committee. However, expenditures may be made directly by any political committee or political party regulated by chapter 103 for obtaining time, space, or services in or by any communications medium for the purpose of jointly endorsing six or more candidates, and any such expenditure shall not be considered a contribution or expenditure to or on behalf of any such candidates for the purposes of this chapter.

(4) A deputy campaign treasurer may exercise any of the powers and duties of a campaign treasurer as set forth in this chapter when specifically authorized to do so by the campaign treasurer and the candidate, in the case of a candidate, or the campaign treasurer and chairman of the political committee, in the case of a political committee.

(5) For purposes of appointing a campaign treasurer and designating a campaign depository, candidates for the offices of Governor and Lieutenant Governor on the same ticket shall be considered a single candidate.

History.—s. 2, ch. 73-128; s. 2, ch. 74-200; s. 1, ch. 75-139; s. 39, ch. 77-175; s. 2, ch. 79-378; s. 56, ch. 79-400; s. 23, ch. 81-304; s. 35, ch. 84-302; s. 3, ch. 89-256; s. 25, ch. 90-315; s. 10, ch. 91-107.

106.023 Statement of candidate.—Each candidate must file a statement with the qualifying officer within 10 days after he files his appointment of campaign treasurer and designation of campaign depository, stating that he has read and understands the requirements of this chapter. Such statement shall be provided by the filing officer and shall be in substantially the following form:

STATEMENT OF CANDIDATE

I, _____, candidate for the office of _____, have received, read, and understand the requirements of Chapter 106, Florida Statutes.

(Signature of candidate)

(Date)

Willful failure to file this form is a violation of ss. 106.19(1)(c) and 106.25(3), F.S.

History.—s. 26, ch. 90-315.

106.025 Campaign fund raisers.—

(1)(a) No campaign fund raiser may be held unless the person for whom such funds are to be so used is a candidate for public office.

(b) All money and contributions received with respect to such a campaign fund raiser shall be deemed to be campaign contributions, and shall be accounted for, and subject to the same restrictions, as other campaign contributions. All expenditures made with respect to such a campaign fund raiser which are made or reimbursed by a check drawn on the campaign depository of the candidate for whom the funds are to be used and shall be deemed to be campaign expenditures to be accounted for, and subject to the same restrictions, as other campaign expenditures.

(c) Any tickets or advertising for such a campaign fund raiser shall contain the following statement: "The purchase of a ticket for, or a contribution to, the campaign fund raiser is a contribution to the campaign of _____ (name of the candidate for whose benefit the campaign fund raiser is held)." Such tickets or advertising shall also comply with other provisions of this chapter relating to political advertising.

(d) Any person or candidate who holds a campaign fund raiser, or consents to a campaign fund raiser being held, in violation of the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) This section shall not apply to any campaign fund raiser held on behalf of a political party by the state or county executive committee of such party, provided that the proceeds of such campaign fund raiser are reported pursuant to s. 106.29.

History.—s. 40, ch. 77-175; s. 51, ch. 81-259; s. 24, ch. 81-304; s. 27, ch. 83-217; s. 4, ch. 89-256.

106.03 Registration of political committees.—

(1) Each political committee which anticipates receiving contributions or making expenditures during a calendar year in an aggregate amount exceeding \$500 or which is seeking the signatures of registered electors in support of an initiative shall file a statement of organization as provided in subsection (3) within 10 days after its organization or, if later, within 10 days after the date on which it has information which causes the committee to anticipate that it will receive contributions or make expenditures in excess of \$500. If a political committee is organized within 10 days of any election, it shall immediately file the statement of organization required by this section.

(2) The statement of organization shall include:

(a) The name and address of the committee;

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

(c) The area, scope, or jurisdiction of the committee;
 (d) The name, address, and position of the custodian of books and accounts;

(e) The name, address, and position of other principal officers, including officers and members of the finance committee, if any;

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

1. Each candidate whom the committee is supporting;

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

(g) Any issue or issues such organization is supporting or opposing;

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

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

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

(k) A listing of all banks, safe-deposit boxes, or other depositories used for committee funds; and

(l) A statement of the reports required to be filed by the committee with federal officials, if any, and the names, addresses, and positions of such officials.

(3)(a) A political committee which is organized to support or oppose statewide, legislative, or multicounty candidates or issues to be voted upon on a statewide or multicounty basis shall file a statement of organization with the Division of Elections.

(b) Except as provided in paragraph (c), a political committee which is organized to support or oppose candidates or issues to be voted on in a countywide election or candidates or issues in any election held on less than a countywide basis shall file a statement of organization with the supervisor of elections of the county in which such election is being held.

(c) A political committee which is organized to support or oppose only candidates for municipal office or issues to be voted on in a municipal election shall file a statement of organization with the officer before whom municipal candidates qualify.

(d) Any political committee which would be required under this subsection to file a statement of organization in two or more locations by reason of the committee's intention to support or oppose candidates or issues at state or multicounty and local levels of government need file only with the Division of Elections.

(4) Any change in information previously submitted in a statement of organization shall be reported to the agency or officer with whom such committee is required to register pursuant to subsection (3), within 10 days following the change.

(5) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$500 shall so notify the agency or officer with whom such committee is required to file the statement of organization.

(6) If the filing officer finds that a political committee has filed its statement of organization consistent with the requirements of subsection (2), it shall notify the committee in writing that it has been registered as a political committee. If the filing officer finds that a political committee's statement of organization does not meet the requirements of subsection (2), it shall notify the committee of such finding and shall state in writing the reasons for rejection of the statement of organization.

(7) The Division of Elections shall promulgate rules to prescribe the manner in which inactive committees may be dissolved and have their registration canceled. Such rules shall, at a minimum, provide for:

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

(b) Adequate opportunity to respond.

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

*History.—*s. 3, ch. 73-128; s. 3, ch. 74-200; s. 1, ch. 77-174; s. 41, ch. 77-175; s. 18, ch. 79-365; s. 25, ch. 81-304; s. 1, ch. 82-143; s. 36, ch. 84-302; s. 5, ch. 89-256; s. 27, ch. 90-315.

106.04 Committees of continuous existence.—

(1) In order to qualify as a committee of continuous existence for the purposes of this chapter, a group, organization, association, or other such entity which is involved in making contributions to candidates, political committees, or political parties, shall meet the following criteria:

(a) It shall be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and

(b) At least 25 percent of the income of such organization, excluding interest, must be derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws.

(2) Any group, organization, association, or other entity may seek certification from the Department of State as a committee of continuous existence by filing an application with the Division of Elections on a form provided by the division. Such application shall provide the information required of political committees by s. 106.03(2). Each application shall be accompanied by the name and street address of the principal officer of the applying entity as of the date of the application; a copy of the charter or bylaws of the organization; a copy of the dues or assessment schedule of the organization, or formula by which dues or assessments are levied; and a complete financial statement or annual audit summarizing all income received, and all expenses incurred, by the organization during the 12 months preceding the date of application. A membership list shall be made available for inspection if deemed necessary by the division.

(3) If the Division of Elections finds that an applying organization meets the criteria for a committee of continuous existence as provided by subsection (1), it shall certify such findings and notify the applying organiza-

tion of such certification. If it finds that an applying organization does not meet the criteria for certification, it shall notify the organization of such findings and shall state the reasons why such criteria are not met.

(4)(a) Each committee of continuous existence shall file an annual report with the Division of Elections during the month of January. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2). However, the charter or bylaws need not be filed if the annual report is accompanied by a sworn statement by the chairman that no changes have been made to such charter or bylaws since the last filing.

(b)1. Each committee of continuous existence shall file regular reports with the Division of Elections at the same times and subject to the same filing conditions as are established by s. 106.07(1) and (2) for candidates' reports.

2. Each committee of continuous existence shall pay a 1.5 percent assessment on all contributions, excluding in-kind contributions. The assessment shall be remitted to the Division of Elections at the time contribution reports are due. The Division of Elections shall deposit the proceeds of the assessment into the Election Campaign Financing Trust Fund.

3. Any committee of continuous existence failing to so file a report with the Division of Elections pursuant to this paragraph on the designated due date shall be subject to a fine for late filing as provided by this section.

(c) All committees of continuous existence shall file the original and one copy of their reports with the Division of Elections. In addition, a duplicate copy of each report shall be filed with the supervisor of elections in the county in which the committee maintains its books and records, except that if the filing officer to whom the committee is required to report is located in the same county as the supervisor no such duplicate report is required to be filed with the supervisor. Reports shall be on forms provided by the division and shall contain the following information:

1. The full name, address, and occupation of each person who has made one or more contributions to the committee during the reporting period, together with the amounts and dates of such contributions. However, if the contribution is \$100 or less, the occupation of the contributor need not be listed, and only the name and address are necessary. However, for any contributions which represent the payment of dues by members in a fixed amount pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.

2. The name and address of each political committee or committee of continuous existence from which the reporting committee received, or the name and address of each political committee, committee of continuous existence, or political party to which it made, any transfer of funds, together with the amounts and dates of all transfers.

3. Any other receipt of funds not listed pursuant to subparagraph 1. or subparagraph 2., including the sources and amounts of all such funds.

4. The name and address of, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.

(d) The treasurer of each committee shall certify as to the correctness of each report and shall bear the responsibility for its accuracy and veracity. Any treasurer who willfully certifies to the correctness of a report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

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

(6) All accounts and records of a committee of continuous existence may be inspected under reasonable circumstances by any authorized representative of the Division of Elections or the Florida Elections Commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

(7) If a committee of continuous existence ceases to meet the criteria prescribed by subsection (1), the Division of Elections shall revoke its certification until such time as the criteria are again met. The Division of Elections shall promulgate rules to prescribe the manner in which such certification shall be revoked. Such rules shall, at a minimum, provide for:

(a) Notice, which shall contain the facts and conduct that warrant the intended action.

(b) Adequate opportunity to respond.

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

(8)(a) Any committee of continuous existence failing to file a report on the designated due date shall be subject to a fine. The fine shall be \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the Election Campaign Financing Trust Fund. No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Upon determining that a report is late, the filing officer shall immediately notify the treasurer of the committee as to the failure to file a report by the designated

due date and that a fine is being assessed for each late day. Upon receipt of the report, the filing officer shall determine the amount of fine which is due and shall notify the treasurer of the committee. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.

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

(c) Any treasurer of a committee may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the treasurer of the committee shall, within the 20-day period, notify the filing officer in writing of his intention to bring the matter before the commission.

(d) The filing officer shall notify the Florida Elections Commission of the repeated late filing by a committee of continuous existence, the failure of a committee of continuous existence to file a report after notice, or the failure to pay the fine imposed.

(e) The filing officer shall waive the fine for first-time offenders who had no activity during the reporting period. The Division of Elections shall adopt rules to carry out the provisions of this paragraph. These rules shall provide for the following:

1. First-time offenders include committees of continuous existence which have not previously been fined for failure to timely file a report pursuant to this section.
2. The committee of continuous existence must request waiver of the fine within 20 days after being notified by the filing officer that the report was not timely filed.
3. The request for waiver must be accompanied by a sworn oath by the treasurer of the committee stating that the committee has not previously been fined for the late filing of a report and that there was no activity during the reporting period. No activity shall mean that no funds were received or expenditures made during the reporting period.
4. The reporting period shall follow the schedules outlined in s. 106.07.

*History.—*s. 4, ch. 73-128, ss. 4, 16, ch. 74-200; s. 1, ch. 77-174; s. 42, ch. 77-175; s. 57, ch. 79-400; s. 26, ch. 81-304; s. 5, ch. 85-226; s. 6, ch. 89-256; s. 28, ch. 90-315; s. 1, ch. 90-338; ss. 6, 12, ch. 91-107.

106.05 Deposit of contributions; statement of campaign treasurer.—All funds received by the campaign treasurer of any candidate or political committee shall, prior to the end of the 5th business day following the receipt thereof, Saturdays, Sundays, and legal holidays

excluded, be deposited in a campaign depository designated pursuant to s. 106.021, in an account designated "(name of candidate or committee) Campaign Account." Except for contributions to political committees made by payroll deduction, all deposits shall be accompanied by a bank deposit slip containing the name of each contributor and the amount contributed by each. If a contribution is deposited in a secondary campaign depository, the depository shall forward the full amount of the deposit, along with a copy of the deposit slip accompanying the deposit, to the primary campaign depository prior to the end of the 1st business day following the deposit.

*History.—*s. 5, ch. 73-128; s. 1, ch. 76-88; s. 1, ch. 77-174; s. 43, ch. 77-175; s. 7, ch. 89-256; s. 29, ch. 90-315.

106.055 Valuation of in-kind contributions.—Any person who makes an in-kind contribution shall, at the time of making such contribution, place a value on such contribution, which valuation shall be the fair market value of such contribution.

*History.—*s. 44, ch. 77-175.

106.06 Treasurer to keep records; inspections.—

(1) The campaign treasurer of each candidate and the campaign treasurer of each political committee shall keep detailed accounts, current within not more than 2 days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this chapter. The campaign treasurer shall also keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and of all withdrawals made therefrom to the primary depository and of all interest earned thereon.

(2) Accounts, including separate interest-bearing accounts and certificates of deposit, kept by the campaign treasurer of a candidate or political committee may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by any authorized representative of the Division of Elections or the Florida Elections Commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. The campaign treasurer of a political committee supporting a candidate may be joined with the campaign treasurer of the candidate as respondent in such a proceeding.

(3) Accounts kept by a campaign treasurer of a candidate shall be preserved by the campaign treasurer for a number of years equal to the term of office of the office to which the candidate seeks election. Accounts kept by a campaign treasurer of a political committee shall be preserved by such treasurer for at least 2 years after the date of the election to which the accounts refer.

*History.—*s. 6, ch. 73-128; s. 45, ch. 77-175; s. 3, ch. 79-378; s. 8, ch. 89-256; s. 30, ch. 90-315.

106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Reports shall be filed on the 10th

day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter which have not otherwise been reported pursuant to this section.

(a) Except as provided in paragraph (b), following the last day of qualifying for office, the reports shall be filed on the 32nd, 18th, and 4th days immediately preceding the first primary and on the 18th and 4th days immediately preceding the second primary and general election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Following the last day of qualifying for office, any statewide candidate who has requested to receive contributions from the Election Campaign Financing Trust Fund or any statewide candidate in a race with a candidate who has requested to receive contributions from the trust fund shall file reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the first primary and general elections, and on the 4th, 11th, 18th, and 25th days prior to the second primary.

(c) Following the last day of qualifying for office, any unopposed candidate need only file a report within 90 days after the date such candidate became unopposed. Such report shall contain all previously unreported contributions and expenditures as required by this section and shall reflect disposition of funds as required by s. 106.141.

(d)1. When a special election is called to fill a vacancy in office, all political committees and committees of continuous existence making contributions or expenditures to influence the results of such special election shall file campaign treasurers' reports with the filing officer on the dates set by the Department of State pursuant to s. 100.111.

2. When an election is called for an issue to appear on the ballot at a time when no candidates are scheduled to appear on the ballot, all political committees making contributions or expenditures in support of or in opposition to such issue shall file reports on the 18th and 4th days prior to such election.

(e) The filing officer shall provide each candidate with a schedule designating the beginning and end of reporting periods as well as the corresponding designated due dates.

(2)(a) All reports required of a candidate by this section shall be filed with the officer before whom the candidate is required by law to qualify. All candidates who file with the Department of State shall file the original and one copy of their reports. In addition, a copy of each report for candidates for other than statewide office who qualify with the Department of State shall be filed with the supervisor of elections in the county where the candidate resides. Reports shall be filed not later than 5 p.m. of the day designated; however, any report post-marked by the U.S. Postal Service no later than midnight of the day designated shall be deemed to have been

filed in a timely manner. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, shall be proof of mailing in a timely manner. Reports shall contain information of all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election shall contain information of all previously unreported contributions received and expenditures made as of the day preceding that designated due date. All such reports shall be open to public inspection.

(b)1. Any report which is deemed to be incomplete by the officer with whom the candidate qualifies shall be accepted on a conditional basis, and the campaign treasurer shall be notified by registered mail as to why the report is incomplete and be given 3 days from receipt of such notice to file an addendum to the report providing all information necessary to complete the report in compliance with this section. Failure to file a complete report after such notice constitutes a violation of this chapter.

2. In lieu of the notice by registered mail as required in subparagraph 1., the qualifying officer may notify the campaign treasurer by telephone that the report is incomplete and request the information necessary to complete the report. If, however, such information is not received by the qualifying officer within 3 days of the telephone request therefor, notice shall be sent by registered mail as provided in subparagraph 1.

(3)(a) Reports required of a political committee shall be filed with the agency or officer before whom such committee registers pursuant to s. 106.03(3) and shall be subject to the same filing conditions as established for candidates' reports. Only committees that file with the Department of State shall file the original and one copy of their reports. Incomplete reports by political committees shall be treated in the manner provided for incomplete reports by candidates in subsection (2).

(b) Each political committee shall pay a 1.5 percent assessment on all contributions, excluding in-kind contributions. The assessment shall be remitted to the filing officer at the time contribution reports are due. The filing officer shall transfer the assessment revenues to the Division of Elections for deposit into the Election Campaign Financing Trust Fund.

(4)(a) Each report required by this section shall contain:

1. The full name, address, and occupation, if any, of each person who has made one or more contributions to or for such committee or candidate within the reporting period, together with the amount and date of such contributions. However, if the contribution is \$100 or less or is from a relative, as defined in s. 112.312, provided that the relationship is reported, the occupation of the contributor need not be listed, and only the name and address are necessary.

2. The name and address of each political committee from which the reporting committee or the candidate received, or to which the reporting committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers.

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

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

5. The total sums of all loans, in-kind contributions, and other receipts by or for such committee or candidate during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

6. The full name and address of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made. However, expenditures made from the petty cash fund provided by s. 106.12 need not be reported individually.

7. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses has been made and which is not otherwise reported, including the amount, date, and purpose of such expenditure. However, expenditures made from the petty cash fund provided for in s. 106.12 need not be reported individually.

8. The total amount withdrawn and the total amount spent for petty cash purposes pursuant to this chapter during the reporting period.

9. The total sum of expenditures made by such committee or candidate during the reporting period.

10. The amount and nature of debts and obligations owed by or to the committee or candidate, which relate to the conduct of any political campaign.

11. A copy of each credit card statement which shall be included in the next report following receipt thereof by the candidate or political committee. Receipts for each credit card purchase shall be retained by the treasurer with the records for the campaign account.

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

(b) The filing officer shall make available to any candidate or committee a reporting form which the candidate or committee may use to indicate contributions received by the candidate or committee but returned to the contributor before deposit.

(5) The candidate and his campaign treasurer, in the case of a candidate, or the political committee chairman and campaign treasurer of the committee, in the case of a political committee, shall certify as to the correctness of each report; and each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer, candidate, or political committee chairman who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor

of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) The campaign depository shall return all checks drawn on the account to the campaign treasurer who shall retain the records pursuant to s. 106.06. The records maintained by the depository with respect to such account shall be subject to inspection by an agent of the Division of Elections or the Florida Elections Commission at any time during normal banking hours, and such depository shall furnish certified copies of any of such records to the Division of Elections or Florida Elections Commission upon request.

(7) Notwithstanding any other provisions of this chapter, in any reporting period during which a candidate, political committee, or committee of continuous existence has not received funds, made any contributions, or expended any reportable funds, the filing of the required report for that period is waived. However, the next report filed must specify that the report covers the entire period between the last submitted report and the report being filed, and any candidate, political committee, or committee of continuous existence not reporting by virtue of this subsection on dates prescribed elsewhere in this chapter shall notify the filing officer in writing on the prescribed reporting date that no report is being filed on that date.

(8)(a) Any candidate or political committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day, and, in the case of a candidate, such fine shall be paid only from personal funds of the candidate. The fine shall be assessed by the filing officer and the moneys collected shall be deposited:

1. In the Election Campaign Financing Trust Fund, in the case of a candidate for state office or a political committee that registers with the Division of Elections; or

2. In the general revenue fund of the political subdivision, in the case of a candidate for an office of a political subdivision or a political committee that registers with an officer of a political subdivision.

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

(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chairman of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chairman. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from personal funds of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

(c) Any candidate or chairman of a political committee may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the candidate or chairman of the political committee shall, within the 20-day period, notify the filing officer in writing of his intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by a candidate or political committee, the failure of a candidate or political committee to file a report after notice, or the failure to pay the fine imposed.

(e) The filing officer shall waive the fine for first-time offenders who had no activity during the reporting period. The Division of Elections shall adopt rules to carry out the provisions of this paragraph. These rules shall provide for the following:

1. First-time offenders include candidates or political committees which have not previously been fined for failure to timely file a report pursuant to this section.

2. The candidate or political committee must request waiver of the fine within 20 days after being notified by the filing officer that the report was not timely filed.

3. The request for the waiver must be accompanied by a sworn oath by the candidate or the treasurer of the committee stating that the candidate or committee has not previously been fined for the late filing of a report as a candidate for public office or as a committee and that there was no activity during the reporting period. No activity shall mean that no contributions were received or expenditures made during the reporting period.

4. The reporting period shall follow the schedules outlined in this section.

History.—s. 7, ch. 73-128; ss. 5, 15, 17, ch. 74-200; ss. 1, 2, ch. 75-8; s. 2, ch. 75-139; s. 1, ch. 77-174; s. 46, ch. 77-175; s. 23, ch. 79-164; ss. 7, 8, ch. 79-365; s. 4, ch. 79-378; s. 58, ch. 79-400; s. 52, ch. 81-259; s. 27, ch. 81-304; s. 2, ch. 82-143; s. 11, ch. 83-251; s. 37, ch. 84-302; s. 6, ch. 85-226; s. 1, ch. 86-134; s. 13, ch. 87-224; s. 9, ch. 89-256; s. 31, ch. 90-315; s. 2, ch. 90-338; s. 18, ch. 90-502; s. 7, ch. 91-107.

*Note.—Section 20, ch. 90-502, provides that the amendment by s. 18, ch. 90-502, applies to all gifts, honoraria, or honorarium expenses received or paid on or after January 1, 1991, unless received pursuant to an agreement entered into prior to that date, in which event the law in effect at the time the agreement was entered into shall apply. Any report that is required with respect to a contribution given before January 1, 1991, must be made according to the requirements applicable thereto.

*Note.—The words "receipt of" were inserted by the editors.

*Note.—The words "as a" were inserted by the editors.

106.071 Independent expenditures; reports; disclaimers.—

(1) Each person who makes an independent expenditure with respect to any candidate or issue, which expenditure, in the aggregate, is in the amount of

\$100 or more, shall file periodic reports of such expenditures in the same manner, at the same time, and with the same officer as a political committee supporting or opposing such candidate or issue. The report shall contain the full name and address of each person to whom and for whom each such expenditure has been made; the amount, date, and purpose of each such expenditure; a description of the services or goods obtained by each such expenditure; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made. Any political advertisement paid for by an independent expenditure shall prominently state "Paid political advertisement paid for by (Name of person or committee paying for advertisement) independently of any (candidate or committee)," and shall contain the name and address of the person paying for the political advertisement.

(2) Any person who fails to include the disclaimer prescribed in subsection (1) in any political advertisement which is required to contain such disclaimer is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) No person may make a contribution in excess of \$1,000 to any other person, to be used by such other person to make an independent expenditure.

History.—s. 47, ch. 77-175; s. 10, ch. 89-256.

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

(1) A person who is elected to office must report all loans, exceeding \$500 in value, made to him and used by him for campaign purposes, and made in the 12 months preceding his election to office, to the filing officer. The report must be made, in the manner prescribed by the Department of State, within 10 days after being elected to office.

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

History.—s. 11, ch. 89-256; s. 32, ch. 90-315; s. 12, ch. 91-107.

106.08 Contributions; limitations on.—

(1)(a) No person, political committee, or committee of continuous existence shall make contributions to any candidate or political committee in this state, for any election, in excess of the following amounts:

1. To a candidate for countywide office or to a candidate in any election conducted on less than a countywide basis, \$500.

2. To a candidate for legislative or multicounty office, \$500.

3. To a candidate for statewide office, \$500. Candidates for the offices of Governor and Lieutenant Governor on the same ticket shall be considered a single candidate for the purpose of this section.

4. To a political committee supporting or opposing one or more candidates, \$500.

5. To a candidate for county court judge or circuit judge, \$500.

6. To a candidate for retention as a judge of a district court of appeal, \$500.

7. To a candidate for retention as a justice of the Supreme Court, \$500.

(b) The contribution limits provided in this subsection shall not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his own campaign. Notwithstanding the limits provided in this subsection, no unemancipated child under the age of 18 years of age may make a contribution to any candidate or to any political committee supporting one or more candidates, in excess of \$100. The limitations provided by this subsection shall apply to each election.

(c) For purposes of this subsection the first primary, second primary, and general election shall be deemed separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice of the Supreme Court or judge of a district court of appeal, there shall be only one election, which shall be the general election, and with respect to candidates for circuit judge or county court judge, there shall be only two elections, which shall be the first primary election and general election.

(2)(a) A candidate may not accept contributions from national, state, and county executive committees of a political party, which contributions in the aggregate exceed \$50,000, no more than \$25,000 of which may be accepted prior to the 28-day period immediately preceding the date of the general election.

(b) For the purposes of this subsection:

1. Print, broadcast, cable, and mailing advertisements are contributions in an amount equal to their fair market value and shall be counted toward the contribution limits of this subsection.

2. Polling services, research services, technical assistance, and voter mobilization efforts are not contributions to be counted toward the contribution limits of this subsection.

(3) Any contribution received by a candidate with opposition in an election or the campaign treasurer or a deputy treasurer of such a candidate on the day of that election or less than 5 days prior to the day of that election shall be returned by him to the person or committee contributing it and shall not be used or expended by or on behalf of the candidate. Any contribution received by a candidate or the campaign treasurer or a deputy treasurer of a candidate after the date at which the candidate withdraws his candidacy, or after the date the candidate is defeated, becomes unopposed, or is elected to office shall be returned to the person or political committee contributing it and shall not be used or expended by or on behalf of the candidate.

(4) Any contribution received by the chairman, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than 5 days prior to the day of that election shall not be obligated or expended by the committee until after the date of the election.

(5) No person shall make any contribution in support of or opposition to a candidate for election or nomination, in support of or opposition to an issue, or to any political committee, through or in the name of another, directly or indirectly, in any election. The solicitation from, and contributions by, candidates, political committees, and party executive committees to any religious, charitable, civic, or other causes or organizations established primarily for the public good are expressly prohibited. However, it shall not be construed as a violation of this subsection for a candidate, political committee, or party executive committee to make gifts of money in lieu of flowers in memory of a deceased person or for a candidate to continue membership in or regular contributions paid from personal or business funds to religious, political party, civic, or charitable groups of which he is a member or to which he has been a regular contributor for more than 6 months. A candidate may purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, or charitable groups.

(6) Any person who knowingly and willfully makes a contribution in violation of subsection (1) or subsection (5), or any person who knowingly and willfully fails or refuses to return any contribution as required in subsection (3), is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If any corporation, partnership, or other business entity or any political committee or committee of continuous existence is convicted of knowingly and willfully violating this section, it shall be fined not less than \$1,000 and not more than \$10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity or of a political committee or committee of continuous existence who aids, abets, advises, or participates in a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(7) Any person who knowingly and willfully violates the provisions of this section shall, in addition to any other penalty prescribed by this chapter, pay to the state a sum equal to twice the amount contributed in violation of this chapter. Each campaign treasurer shall pay all amounts contributed in violation of this section to the state for deposit in the General Revenue Fund.

(8) The provisions of this section shall not apply to the transfer of funds between a primary depository and a savings account or certificate of deposit or to any interest earned on such account or certificate.

History.—s. 6, ch. 73-128; s. 6, ch. 74-200; s. 1, ch. 77-174; s. 48, ch. 77-175; s. 1, ch. 78-403; s. 9, ch. 79-365; s. 5, ch. 79-378; s. 7, ch. 85-226; s. 4, ch. 86-134; s. 12, ch. 89-256; ss. 33, 46, ch. 90-315; s. 9, ch. 90-338; s. 11, ch. 91-107.

106.082 Commissioner of Agriculture candidates; campaign contribution limits.—

(1) No business which is inspected, licensed, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that business; and no political committee or committee of contin-

uous existence representing the interests of such business shall make or solicit a contribution in excess of \$100, for any election, to or on behalf of any candidate for the office of Commissioner of Agriculture. The provisions of this subsection shall not prevent any candidate for the office of Commissioner of Agriculture or members of that candidate's immediate family from contributing to that candidate's campaign as otherwise permitted by law.

(2) No candidate for the office of Commissioner of Agriculture may solicit or accept a campaign contribution in excess of \$100 from any business or person who is licensed or inspected or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person or business; or any political committee or committee of continuous existence that represents that person.

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500; or any director, officer, lobbyist, or controlling interest of that person; or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the Department of Agriculture holding a position in the Senior Management Service as defined in s. 220.402; any person holding a position in the Select Exempt Service as defined in s. 110.602; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

(4) Any person who commits a willful violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 38, ch. 92-180.

*Note.—Does not exist; s. 110.402 creates the Senior Management Service.

106.085 Independent expenditures; unfair surprise prohibited; penalty.—

(1) Any individual, group, organization, or committee making an independent expenditure in excess of \$1,000 on behalf of or in opposition to a candidate shall deliver notice in writing of such independent expenditure, as well as the amount of such expenditure and a detailed description of the media type or use of such expenditure, within 24 hours after obligating any funds for such expenditure. An expenditure is obligated upon the purchase of any political advertising or the entering into any agreement, either oral or written, to purchase any political advertising. Such notice shall be delivered to all of the candidates in the affected race and to the qualifying officer of such candidates. The notice shall specifically state the name of the candidate whom the independent expenditure is designed to support or oppose. For purposes of this subsection, notice shall include, but is not limited to, personal hand delivery or overnight mail. Each new expenditure shall require the delivery or filing of an additional new notice.

(2) A person who violates any provision of this section shall be liable for a civil fine of up to \$5,000 to be determined by the Florida Elections Commission or an amount equal to 10 percent of the expenditure not noticed, whichever is greater.

History.—s. 13, ch. 91-107.

106.09 Cash contributions and contribution by cashier's checks.—

(1) No person shall make or accept a cash contribution or contribution by means of a cashier's check in excess of \$100.

(2) Any person who makes or accepts a contribution in violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 9, ch. 73-128; s. 48, ch. 77-175.

106.11 Expenses of and expenditures by candidates and political committees.—

Each candidate and each political committee which designates a primary campaign depository pursuant to s. 106.021(1) shall make expenditures from funds on deposit in such primary campaign depository only in the following manner, with the exception of expenditures made from petty cash funds provided by s. 106.12:

(1) The campaign treasurer or deputy campaign treasurer of a candidate or political committee shall make expenditures from funds on deposit in the primary campaign depository only by means of a bank check drawn upon the campaign account of the candidate or political committee. The campaign account shall be separate from any personal or other account and shall be used only for the purpose of depositing contributions and making expenditures for the candidate or political committee. The checks for such account shall contain, as a minimum, the following information:

- (a) The statement "Campaign Account of (name of candidate or political committee)."
- (b) The account number and the name of the bank.
- (c) The exact amount of the expenditure.
- (d) The signature of the campaign treasurer or deputy treasurer.

(e) The exact purpose for which the expenditure is authorized.

(f) The name of the payee.

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

(3) No candidate, campaign manager, treasurer, deputy treasurer, or political committee or any officer or agent thereof, or any person acting on behalf of any of the foregoing, shall authorize any expenses, nor shall any campaign treasurer or deputy treasurer sign a check drawn on the primary campaign account for any purpose, unless there are sufficient funds on deposit in the primary depository account of the candidate or political committee to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid. However, an expense may be incurred for the purchase of

goods or services if there are sufficient funds on deposit in the primary depository account to pay the full amount of the incurred expense, to honor all checks drawn on such account, which checks are outstanding, and to meet all other expenses previously authorized but not yet paid, provided that payment for such goods or services is made upon final delivery and acceptance of the goods or services; and an expenditure from petty cash pursuant to the provisions of s. 106.12 may be authorized, if there is a sufficient amount of money in the petty cash fund to pay for such expenditure. Payment for credit card purchases shall be made pursuant to s. 106.125. Any expense incurred or authorized in excess of such funds on deposit shall, in addition to other penalties provided by law, constitute a violation of this chapter.

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

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

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

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

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

*History.—*s. 11, ch. 73-128; s. 8, ch. 74-200; s. 48, ch. 77-175; s. 2, ch. 78-403; s. 10, ch. 79-365; s. 8, ch. 85-226; s. 13, ch. 89-256; s. 14, ch. 91-107.

106.12 Petty cash funds allowed.—

(1) Each campaign treasurer designated pursuant to s. 106.021(1) for a candidate or political committee is authorized to withdraw from the primary campaign account, until the close of the last day for qualifying for office, the amount of \$500 per calendar quarter reporting period for the purpose of providing a petty cash fund for the candidate or political committee.

(2) Following the close of the last day for qualifying and until the last election in a given election period in which the political committee participates, the campaign treasurer of each political committee is authorized to withdraw the following amount each week from the primary depository campaign account for the purpose of providing a petty cash fund for the political committee, and, following the close of the last day for qualifying and until the election at which such candidate is eliminated or elected to office, or the time at which the candidate becomes unopposed, the campaign treasurer of each candidate is authorized to withdraw the following amount each week from the primary depository campaign account for the purpose of providing a petty cash fund for the candidate:

(a) For all candidates for nomination or election on a statewide basis, \$500 per week.

(b) For all other candidates and all political committees, \$100 per week.

(3) The petty cash fund so provided shall be spent only in amounts less than \$30 and only for office sup-

plies, transportation expenses, and other necessities. Petty cash shall not be used for the purchase of time, space, or services from communications media as defined in s. 106.011(13).

*History.—*s. 12, ch. 73-128; s. 48, ch. 77-175; s. 9, ch. 85-226.

106.125 Credit cards; conditions on use.—Any candidate for statewide office or any political committee created to support or oppose any candidate for statewide office or to support or oppose any statewide issue may obtain, and use in making travel-related campaign expenditures, credit cards. The obtention and use of credit cards by any such candidate or political committee shall be subject to the following conditions:

(1) Credit cards may be obtained only from the same bank which has been designated as the candidate's or political committee's primary campaign depository.

(2) Credit cards shall be in the name of the candidate or political committee and shall reflect that the account is a campaign account.

(3) Before a credit card may be used, a copy of the agreement or contract between the candidate and the bank, or the political committee and the bank, and a list of all persons who have been authorized to use the card shall be filed with the Secretary of State.

(4) All credit cards issued to candidates or political committees shall expire no later than midnight of the last day of the month of the general election.

(5) Each statement rendered by the issuer of a credit card shall be paid upon receipt.

(6) Campaign travel-related expenditures shall include transportation, lodging, meals, and other expenses incurred in connection with traveling for campaign purposes.

This section shall not be deemed to preclude the use of advance payments by a check drawn on the primary depository account for travel-related expenses. The treasurer shall require an accounting of actual expenses and reconcile any overpayment or underpayment to the original payee.

*History.—*s. 11, ch. 79-365; s. 2, ch. 86-134.

106.14 Utilities; deposits; prior authorization.—

(1) Utility companies providing utilities services to a candidate or political committee shall charge a deposit sufficient to meet all anticipated charges during a billing period.

(2) Authorization and payment for utilities used during the billing period must be made by the candidate or political committee when the bill is received from a utility company.

*History.—*s. 14, ch. 73-128; s. 48, ch. 77-175; s. 5, ch. 78-403; s. 59, ch. 79-400; s. 2, ch. 85-63; s. 14, ch. 89-256.

106.1405 Use of campaign funds by candidates.—

If a candidate or spouse of a candidate intends to draw a salary from the campaign account of such candidate or use funds on deposit in a campaign account to defray normal living expenses for himself or his family, other than expenses actually incurred for transportation, meals, and lodging by himself or a member of his family during travel in the course of the campaign, the candidate shall, at the same time he appoints his treasurer

and designates his campaign depository, file with the officer before whom he qualifies a statement that the candidate intends to use the funds for such purposes. Unless the statement of intent is filed at such time, the funds shall not be so used.

History.—s. 49, ch. 77-175; s. 53, ch. 81-259.

106.141 Disposition of surplus funds by candidates.—

(1) Each candidate who withdraws his candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his campaign account and file a report reflecting the disposition of all remaining funds. Such candidate shall not accept any contributions, nor shall any person accept contributions on behalf of such candidate, after the candidate withdraws his candidacy, becomes unopposed, or is eliminated or elected.

(2) Any candidate required to dispose of funds pursuant to this section may, prior to such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his candidacy, who has been eliminated as a candidate, who has become unopposed, or who has been elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days of the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and accumulated interest earned thereon to the campaign account of the candidate for disposal in accordance with the provisions of this section. However, when funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and accumulated interest as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his candidacy, or is eliminated or elected, whichever comes first.

(4)(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds which have not been spent, or have not been obligated to be spent, with respect to a campaign which has been conducted.

2. Donate the funds which have not been spent or have not been obligated to be spent to a charity organization or organizations which meet the qualifications of s. 501(c)(3) of the Internal Revenue Code, with respect to a campaign which has been conducted.

3. Give the funds which have not been spent or have not been obligated to be spent to the political party of which such candidate is a registered member.

4. Give the funds which have not been spent, or have not been obligated to be spent, with respect to a campaign which has been conducted:

a. In the case of a candidate for state office, to the state, to be deposited in either the Election Campaign

Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or

b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions from the Election Campaign Financing Trust Fund shall return all surplus campaign funds to the Election Campaign Financing Trust Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign account to an office account any amount of the funds on deposit in such campaign account up to:

(a) \$10,000, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.

(b) \$5,000, for a candidate for multicounty office.

(c) \$2,500 multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.

(d) \$1,000 multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.

(e) \$6,000, for a candidate for retention as a justice of the Supreme Court.

(f) \$3,000, for a candidate for retention as a judge of a district court of appeal.

(g) \$1,500, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with his public office. Such expenses may include travel expenses incurred by the officer or a member of his staff or expenses incurred in the operation of his office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his office account, he may transfer surplus campaign funds to his office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall give such funds to a charitable organization or organizations which meet the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6) Prior to disposing of funds pursuant to subsection (4) or transferring funds into an office account pursuant to subsection (5), any candidate who filed an oath stating that he was unable to pay the election assess-

ment or fee for verification of petition signatures without imposing an undue burden on his personal resources or on resources otherwise available to him, or who filed both such oaths, or who qualified by the alternative method and was not required to pay an election assessment, shall reimburse the state or local governmental entity, whichever is applicable, for such waived assessment or fee or both. Such reimbursement shall be made first for the cost of petition verification and then, if funds are remaining, for the amount of the election assessment. If there are insufficient funds in the account to pay the full amount of either the assessment or the fee or both, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund. All reimbursements for the amount of the election assessment shall be forwarded by the qualifying officer to the Department of State for deposit in the Elections Commission Trust Fund.

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

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

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

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

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. 106.07. Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late reports.

(8) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. 106.07(2).

(9) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his candidacy, after the candidate has

become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) Any candidate who is required by the provisions of this section to dispose of funds in his campaign account and who fails to dispose of the funds in the manner provided in this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

*History.—*s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400, s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107.

106.143 Political advertisements circulated prior to election; requirements.—

(1) Any political advertisement and any campaign literature published, displayed, or circulated prior to, or on the day of, any election shall:

(a) Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."

(b) Identify the persons or organizations sponsoring the advertisement.

(c) 1. a. State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement; or

b. State who provided or paid for the advertisement and cost of production, if different from the source of sponsorship.

2. This paragraph shall not apply if the source of the sponsorship is patently clear from the content or format of the political advertisement or campaign literature.

This subsection does not apply to campaign messages used by a candidate and his supporters which messages are designed to be worn by a person.

(2) Any political advertisement of a candidate running for partisan office in any election shall express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as an independent candidate, any political advertisement of the candidate must state that the candidate is an independent candidate. Any political advertisement endorsing the candidate shall expressly state whether the permission of the candidate has been obtained to advertise such endorsement.

(3) It is unlawful for any candidate or person on behalf of a candidate to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to make such representation. However, this section does not apply to:

(a) Editorial endorsement by any newspaper, radio or television station, or other recognized news medium.

(b) Publication by a party committee advocating the candidacy of its nominees.

(4) No political advertisement of a candidate who is not an incumbent of the office for which he is running shall use the word "re-elect." Additionally, such advertisement must include the word "for" between the candidate's name and the office for which he is running, in

order that incumbency is not implied. This subsection does not apply to bumper stickers or items designed to be worn by a person.

(5) This section shall not apply to novelty items of nominal value which support, but do not oppose, a candidate or issue.

(6) Any political advertisement which is published, displayed, or produced in a language other than English may provide the information required by this section in the language used in the advertisement.

(7) Any person who willfully violates the provisions of this section is subject to the civil penalties prescribed in s. 106.265.

History.—s. 8, ch. 26870, 1951; s. 1, ch. 61-145; s. 21, ch. 65-379; s. 57, ch. 71-136; s. 30, ch. 73-128; s. 52, ch. 77-175; s. 30, ch. 81-304; s. 16, ch. 89-256; s. 35, ch. 90-315; s. 16, ch. 91-107.

Note.—Former s. 104.37.

106.1435 Usage and removal of political campaign advertisements.—

(1) Each candidate, whether for a federal, state, county, or district office, shall make a good faith effort to remove all of his political campaign advertisements within 30 days after:

- (a) Withdrawal of his candidacy;
- (b) Having been eliminated as a candidate; or
- (c) Being elected to office.

However, a candidate is not expected to remove those political campaign advertisements which are in the form of signs used by an outdoor advertising business as provided in chapter 479. The provisions herein do not apply to political campaign advertisements placed on motor vehicles or to campaign messages designed to be worn by persons.

(2) If political campaign advertisements are not removed within the specified period, the political subdivision or governmental entity has the authority to remove such advertisements and may charge the candidate the actual cost for such removal. Funds collected for removing such advertisements shall be deposited to the general revenue of the political subdivision.

(3) Pursuant to chapter 479, no political campaign advertisements shall be erected, posted, painted, tacked, nailed, or otherwise displayed, placed, or located on or above any state or county road right-of-way.

(4) The officer before whom a candidate qualifies for office shall notify the candidate, in writing, of the provisions in this section.

(5) This provision does not preclude municipalities from imposing additional or more stringent requirements on the usage and removal of political campaign advertisements.

History.—s. 1, ch. 84-221; s. 20, ch. 84-302; s. 14, ch. 87-224.

106.1437 Miscellaneous advertisements.—Any advertisement, other than a political advertisement, on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, intended to influence public policy or the vote of a public official, shall clearly designate the sponsor of such advertisement by including a clearly readable statement of sponsorship. If the advertisement is broadcast on television, the advertisement shall also contain a verbal statement

of sponsorship. This section shall not apply to an editorial endorsement.

History.—s. 36, ch. 90-315.

106.144 Endorsements or opposition by certain groups and organizations.—

(1) Any group, club, association, or other organization, except organizations affiliated with political parties regulated by chapter 103, which intends to endorse or oppose the candidacy of one or more candidates for public office, or which endorses or opposes any referendum, by means of political advertisements shall, prior to publishing, issuing, broadcasting, or otherwise distributing such advertisement, file a statement as provided by this section with the officer or officers provided in this section. Such statement shall be filed with the officer before whom each candidate that the organization intends to endorse or oppose qualified for office pursuant to law. Each statement shall contain the following information:

(a) The date the organization was chartered and the number of members during the most recent 12 months and how many of these members, if any, have paid dues;

(b) A list of current officers or directors of such organization and a statement as to their method of selection;

(c) A statement of the procedures used by such organization in determining which candidates to endorse or oppose;

(d) If political advertisements for endorsement or opposition purposes are to be paid from funds other than the dues of the membership of the organization, a statement describing the sources of such funds; and

(e) The amount of funds paid to the organization by candidates for public office, including payments in the form of dues, and the name of, and office sought by, each such candidate.

(2) Any officer, director, or other person acting on behalf of an organization who willfully violates the provisions of subsection (1) is subject to the civil penalties prescribed in s. 106.265.

History.—s. 31, ch. 73-128; s. 53, ch. 77-175; s. 17, ch. 89-256.

Note.—Former s. 104.373.

106.15 Certain acts prohibited.—

(1) No person shall pay money or give anything of value for the privilege of speaking at a political meeting in the furtherance of his candidacy, nor shall anyone speaking for such a person pay money or give anything of value for such privilege.

(2) No candidate, in the furtherance of his candidacy for nomination or election to public office in any election, shall use any state-owned aircraft or motor vehicle, as provided in chapter 287, solely for the purpose of furthering his candidacy. However, in the event a candidate uses any state-owned aircraft or motor vehicle to conduct official state business and while on such trip performs any function in the furtherance of his candidacy for nomination or election to public office in any election, the candidate shall prorate the expenses incurred and reimburse the appropriate agency for any trip not exclusively for state business and shall pay either a prorated share of all fixed and variable expenses related to the ownership, operation, and use of such air-

craft or one-half of the total fixed and variable expenses related to the ownership, operation, and use of such aircraft, whichever is greater. The reimbursement shall be made from the campaign account of the candidate.

(3) No candidate shall, in the furtherance of his candidacy for nomination or election to public office in any election, use the services of any officer or employee of the state during working hours.

(4) No person shall make and no person shall solicit or knowingly accept any campaign contribution in a building owned by a governmental entity. For purposes of this subsection, "accept" means to receive a contribution by personal hand delivery from a contributor or his agent. This subsection shall not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fundraiser.

(5) Any person violating the provisions of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

*History.—*s. 15, ch. 73-128; s. 9, ch. 74-200; s. 1, ch. 77-174; s. 54, ch. 77-175; s. 81, ch. 79-400; s. 31, ch. 81-304; s. 28, ch. 83-217; s. 2, ch. 83-304; s. 16, ch. 91-45; s. 17, ch. 91-107.

106.16 Limitation on certain rates and charges.—

No person or corporation within the state publishing a newspaper or other periodical or operating a radio or television station or network of stations in Florida shall charge one candidate for state or county public office for political advertising in a county, or for political broadcasts in a county, at a rate in excess of that charged another political candidate.

*History.—*s. 16, ch. 73-128; s. 55, ch. 77-175; s. 18, ch. 89-256.

106.161 Air time available at the lowest unit rate.—

To the extent permitted by federal law, all broadcast radio and television stations and all cable television stations shall make air time available to candidates for public office at the lowest unit rate.

*History.—*s. 35, ch. 91-107.

106.17 Polls and surveys relating to candidacies.—

Any candidate, political committee, or state or county executive committee of a political party may authorize or conduct a political poll, survey, index, or measurement of any kind relating to candidacy for public office so long as the candidate, political committee, or political party maintains complete jurisdiction over the poll in all its aspects.

*History.—*s. 17, ch. 73-128; s. 1, ch. 77-174; s. 56, ch. 77-175; s. 32, ch. 81-304.

106.18 When a candidate's name to be omitted from ballot.—

(1) The name of a candidate shall not be printed on the ballot for an election if the candidate is convicted of violating s. 106.19.

(2) Any candidate whose name is removed from the ballot pursuant to subsection (1) is disqualified as a candidate for office. If the disqualification of such candidate results in a vacancy in nomination, such vacancy shall be filled by a person other than such candidate in the manner provided by law.

(3) No certificate of election shall be granted to any candidate until all preelection reports required by s. 106.07 have been filed in accordance with the provisions of such section. However, no candidate shall be pre-

vented from receiving a certificate of election for failure to file any copy of a report required by this chapter.

*History.—*s. 18, ch. 73-128; s. 57, ch. 77-175; s. 11, ch. 85-226; s. 37, ch. 90-315; s. 3, ch. 90-338.

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

(1) Any candidate; campaign manager, campaign treasurer, or deputy treasurer of any candidate; committee chairman, vice chairman, campaign treasurer, deputy treasurer, or other officer of any political committee; agent or person acting on behalf of any candidate or political committee; or other person who knowingly and willfully:

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

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

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

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

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

(2) Any candidate, campaign treasurer, or deputy treasurer; any chairman, vice chairman, or other officer of any political committee; any agent or person acting on behalf of any candidate or political committee; or any other person who violates paragraphs (a), (b), or (d) of subsection (1) shall be subject to a civil penalty equal to 3 times the amount involved in the illegal act. Such penalty may be in addition to the penalties provided by subsection (1) and shall be paid into the General Revenue Fund of this state. The Division of Elections shall have authority to bring a civil action in circuit court to recover such civil penalty.

*History.—*s. 19, ch. 73-128; s. 57, ch. 77-175; s. 62, ch. 79-400; s. 12, ch. 91-107.

106.21 Certificates of election not to be issued upon conviction.—

(1) If a successful candidate is convicted of violating s. 106.19(1) prior to the issuance of his certificate of election, such certificate shall not be issued, and a vacancy shall be declared and filled as provided by law.

(2) If a successful candidate is convicted of violating s. 106.19(1) subsequent to the issuance of a certificate of election but prior to taking office, such certificate shall be rescinded by the issuing body and declared void, and a vacancy in office shall exist and be filled as provided by law.

*History.—*s. 21, ch. 73-128; s. 57, ch. 77-175.

106.22 Duties of the Division of Elections.—It is the duty of the Division of Elections to:

(1) Prescribe forms for statements and other information required to be filed by this chapter. Such forms shall be furnished by the Department of State or office of the supervisor of elections to persons required to file such statements and information with such agency.

(2) Prepare and publish manuals or brochures setting forth recommended uniform methods of bookkeeping and reporting, and including appropriate portions of

the election code, for use by persons required by this chapter to file statements.

(3) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(4) Preserve statements and other information required to be filed with the division pursuant to this chapter for a period of 10 years from date of receipt.

(5) Prepare and publish such reports as it may deem appropriate.

(6) Make, from time to time, audits and field investigations with respect to reports and statements filed under the provisions of this chapter and with respect to alleged failures to file any report or statement required under the provisions of this chapter. The division shall conduct a postelection audit of the campaign accounts of all candidates receiving contributions from the Election Campaign Financing Trust Fund.

(7) Investigate apparent or alleged violations of this chapter and recommend legal disposition of the violation as provided in s. 106.25.

(8) Employ such personnel or contract for such services as are necessary to adequately carry out the intent of this chapter.

(9) Prescribe rules and regulations to carry out the provisions of this chapter. Such rules shall be prescribed pursuant to chapter 120.

(10) Make an annual report to the President of the Senate and the Speaker of the House of Representatives concerning activities of the division and recommending improvements in the election code.

*History.—*s. 22, ch. 73-128; s. 57, ch. 77-175; s. 13, ch. 79-365; s. 4, ch. 84-254; s. 3, ch. 86-275; s. 9, ch. 90-338.

106.23 Powers of the Division of Elections.—

(1) In order to carry out the responsibilities prescribed by this chapter, the Division of Elections is empowered to subpoena and bring before its duly authorized representatives any person in the state, or any person doing business in the state, or any person who has filed or is required to have filed any application, document, papers or other information with an office or agency of this state or a political subdivision thereof and to require the production of any papers, books, or other records relevant to any investigation, including the records and accounts of any bank or trust company doing business in this state. Duly authorized representatives of the division are empowered to administer all oaths and affirmations in the manner prescribed by law to witnesses who shall appear before them concerning any relevant matter. Should any witness fail to respond to the lawful subpoena of the division or, having responded, fail to answer all lawful inquiries or to turn over evidence that has been subpoenaed, the division may file a complaint before any circuit court of the state setting up such failure on the part of the witness. On the filing of such complaint, the court shall take jurisdiction of the witness and the subject matter of said complaint and shall direct the witness to respond to all lawful questions and to produce all documentary evidence in his possession which is lawfully demanded. The failure of any witness to comply with such order of the court shall constitute a direct and criminal contempt of court, and the court shall punish said witness accordingly. How-

ever, the refusal by a witness to answer inquiries or turn over evidence on the basis that such testimony or material will tend to incriminate such witness shall not be deemed refusal to comply with the provisions of this chapter.

(2) The Division of Elections shall provide advisory opinions when requested by any supervisor of elections, candidate, local officer having election-related duties, political party, political committee, committee of continuous existence, or other person or organization engaged in political activity, relating to any provisions or possible violations of Florida election laws with respect to actions such supervisor, candidate, local officer having election-related duties, political party, committee, person, or organization has taken or proposes to take. A written record of all such opinions issued by the division, sequentially numbered, dated, and indexed by subject matter, shall be retained. A copy shall be sent to said person or organization upon request. Any such person or organization, acting in good faith upon such an advisory opinion, shall not be subject to any criminal penalty provided for in this chapter. The opinion, until amended or revoked, shall be binding on any person or organization who sought the opinion or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

*History.—*s. 23, ch. 73-128; s. 3, ch. 76-233; s. 58, ch. 77-175.

106.24 Florida Elections Commission; membership; powers; duties.—

(1) There is created within the Department of State a Florida Elections Commission, hereinafter referred to as the commission. The commission shall not be subject to control, supervision, or direction by the Department of State in the performance of its duties. It shall be composed of seven members, including a chairman, all of whom shall be appointed by the Governor with the approval of three members of the Cabinet and subject to confirmation by the Senate. Members of the commission appointed by the Governor shall serve for 4-year terms. The chairman of the commission shall be designated by the Governor. Vacancies on the commission shall be filled for the unexpired terms in the manner of the original appointment to the vacated position. Members of the commission may not serve more than two terms. Members of the commission shall be paid travel and per diem as provided in s. 112.061 while in performance of their duties and in traveling to, from, and upon same. Of the seven members of the commission, no more than four members shall be from the same political party at any one time.

(2) No member of the commission shall be a member of any county, state, or national committee of a political party; be an officer in any partisan political club or organization; or hold, or be a candidate for, any other public office. No person shall be appointed as a member of the commission who has held an elective public office or office in a political party within the year immediately preceding his appointment.

(3) The commission shall convene at the call of its chairman or at the request of a majority of the members of the commission. The presence of four members is required to constitute a quorum, and the affirmative vote

of the majority of the members present is required for any action or recommendation by the commission. The commission may meet in any city of the state.

(4) The Division of Elections shall provide administrative support and services to the commission to carry out its duties pursuant to this chapter. The division shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations.

(5) Hearings shall be held before the commission, except that the chairman may direct that any hearing be held before one member of the commission or a panel of less than the full commission. The commission shall adopt rules to provide for the filing of a report when hearings are held by a single commissioner or a panel, which rules shall prescribe the time for filing the report and the contents of the report.

(6) There is hereby established in the State Treasury an Elections Commission Trust Fund to be utilized by the Division of Elections and the Florida Elections Commission in order to carry out their duties pursuant to ss. 106.24-106.28.

(7) The department, in consultation with the commission, shall develop a budget request ²biennially which shall be submitted by the department to the Governor for transmittal to the Legislature.

*History.—*s. 24, ch. 73-128; s. 10, ch. 74-200; s. 59, ch. 77-175; s. 63, ch. 79-400; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 19, ch. 89-256; s. 36, ch. 89-338; s. 38, ch. 90-315; ss. 4, 14, 15, ch. 90-338.

¹Note.—Repealed effective October 1, 2000, by s. 15, ch. 90-338, and scheduled for review pursuant to s. 11.611.

²Note.—Chapter 91-109 provides for a change from biennial to annual budgeting.

1106.25 Reports of alleged violations to Department of State; disposition of findings.—

(1) Jurisdiction to investigate and determine violations of this chapter is vested in the Division of Elections and the Florida Elections Commission; however, nothing in this section limits the jurisdiction of any other officers or agencies of government empowered by law to investigate, act upon, or dispose of alleged violations of this code.

(2) The Division of Elections shall investigate and report to the Florida Elections Commission all violations of this chapter with or without having received a sworn complaint, and may conduct random audits and investigations with respect to reports and statements filed under this chapter and with respect to the alleged failure to file any reports and statements required under this chapter. However, any person, other than the division, having information of any violation of this chapter shall file a sworn complaint with the Division of Elections. Such sworn complaint shall state whether a complaint of the same violation has been made to any state attorney.

(3) For the purposes of Florida Elections Commission jurisdiction, a violation shall mean the willful performance of an act prohibited by this chapter or the willful failure to perform an act required by this chapter.

(4) The Division of Elections shall undertake a preliminary investigation to determine if the facts alleged in a sworn complaint or a matter initiated by the division constitute probable cause to believe that a violation has occurred. Upon completion of the preliminary investigation the division shall, by written report, find probable

cause or no probable cause to believe that this chapter or s. 104.271 has been violated.

(a) If no probable cause is found, the division may dismiss the case and the case shall become a matter of public record, except as otherwise provided in this section, together with a written statement of the findings of the preliminary investigation and a summary of the facts which the division shall send to the complainant and the alleged violator.

(b) If probable cause is found, the division shall so notify the complainant and the alleged violator in writing and shall refer the case to the commission. All documents made or received in the disposition of the complaint shall become public records upon a finding by the commission.

In a case where probable cause is found by the commission, the commission shall make a preliminary determination to consider the matter or to refer the matter to the state attorney for the judicial circuit in which the alleged violation occurred.

(5) It is the duty of a state attorney receiving a complaint referred by the commission to investigate the complaint promptly and thoroughly; to undertake such criminal or civil actions as are justified by law; and to report to the commission the results of such investigation, the action taken, and the disposition thereof. The failure or refusal of a state attorney to prosecute or to initiate action upon a complaint or a referral by the commission shall not bar further action by the commission under this chapter.

(6) Every sworn complaint filed pursuant to this chapter with the Division of Elections or the Florida Elections Commission, every division investigation and investigative report or other paper of the division or commission with respect to a violation of this chapter, and every proceeding of the commission with respect to a violation of this chapter is confidential, is exempt from the provisions of ss. 119.07(1) and 286.011, and is exempt from publication in the Florida Administrative Weekly of any notice or agenda with respect to any proceeding relating to such violation except under the following circumstances:

(a) As provided in subsection (5);

(b) Upon a determination of probable cause or no probable cause by the commission;

(c) After a finding of no probable cause is made by the division and the case is not appealed; or

(d) For proceedings conducted with respect to appeals of fines levied by filing officers for the late filing of reports required by this chapter.

However, a complainant is not bound by the confidentiality provisions of this section. In addition, confidentiality may be waived in writing by the person against whom the complaint has been filed or the investigation has been initiated. If a finding of probable cause in a case is entered within 30 days prior to the date of the election with respect to which the alleged violation occurred, such finding and the proceedings and records relating to such case shall not become public until noon of the day following such election. When two or more persons are being investigated by the division with respect to an

alleged violation of this chapter, the division or the commission may not publicly enter a finding of probable cause or no probable cause in the case until a finding of probable cause or no probable cause for the entire case has been determined. However, once the confidentiality of any case has been breached, the person or persons under investigation have the right to waive the confidentiality of the case, thereby opening up the proceedings and records to the public. Any person who discloses any information or matter made confidential by the provisions of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7) Dismissal of a case by the division, based on a finding of no probable cause, may be appealed to the commission by the complainant. Any complainant intending to appeal such dismissal must, within 30 days after the dismissal, file a request for a hearing before the commission with the division.

(8) Any person who files a complaint pursuant to this section while knowing that the allegations contained in such complaint are false or without merit commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 25, ch. 73-128; s. 11, ch. 74-200; s. 60, ch. 77-175; s. 3, ch. 78-403; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 39, ch. 84-302; s. 20, ch. 89-256; ss. 5, 14, 15, ch. 90-338; s. 21, ch. 90-360; s. 18, ch. 91-107.

Note.—Repealed effective October 1, 2000, by s. 15, ch. 90-338, and scheduled for review pursuant to s. 11.611.

1106.26 Powers of commission; rights and responsibilities of parties; findings by commission.—

(1) The commission shall, pursuant to rules adopted and published in accordance with chapter 120, consider all matters reported to it by the Division of Elections or otherwise coming to its attention, including appeals of division dismissals of cases based on no probable cause. In order to carry out its duties, the commission may, whenever required, issue subpoenas and other necessary process to compel the attendance of witnesses before it. The chairman thereof shall issue said process on behalf of the commission. The chairman or any other member of the commission may administer all oaths and affirmations in the manner prescribed by law to witnesses who shall appear before the commission for the purpose of testifying in any matter about which the commission may desire evidence. The commission, whenever required, may also compel by subpoena the production of any books, letters, or other documentary evidence it may desire to examine in reference to any matter before it. The sheriffs in the several counties shall make such service and execute all process or orders when required by the commission. Sheriffs shall be paid for these services by the commission as provided for in s. 30.231. Any person who is served with a subpoena to attend a hearing of the commission also shall be served with a general statement informing him of the subject matter of the commission's investigation or inquiry and a notice that he may be accompanied at the hearing by counsel of his own choosing.

(2) Should any witness fail to respond to the lawful subpoena of the commission or, having responded, fail

to answer all lawful inquiries or to turn over evidence that has been subpoenaed, the commission may file a complaint before any circuit court of the state setting up such failure on the part of the witness. On the filing of such complaint, the court shall take jurisdiction of the witness and the subject matter of said complaint and direct the witness to respond to all lawful questions and to produce all documentary evidence in his possession which is lawfully demanded. The failure of any witness to comply with such order of the court shall constitute a direct and criminal contempt of court, and the court shall punish said witness accordingly.

(3) All witnesses summoned before the commission, other than on the request of the subject of a hearing, shall receive reimbursement for travel expenses and per diem at the rates provided in s. 112.061. However, the fact that such reimbursement is not tendered at the time the subpoena is served shall not excuse the witness from appearing as directed therein.

(4) Upon request of any person having business before the commission, and with the approval of a majority of the commission, the chairman or, in his absence, the vice chairman shall instruct all witnesses to leave the hearing room and retire to a designated place. The witness will be instructed by the chairman or, in his absence, the vice chairman not to discuss his testimony or the testimony of any other person with anyone until the hearing has been adjourned and the witness discharged by the chairman. The witness shall be further instructed that should any person discuss or attempt to discuss the matter under investigation with him after receiving such instructions he shall bring such matter to the attention of the commission. No member of the commission or representative thereof may discuss any matter or matters pertinent to the subject matter under investigation with witnesses to be called before the commission from the time that these instructions are given until the hearing has been adjourned and the witness discharged by the chairman.

(5) The commission, when interrogating witnesses as provided herein, shall cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced. This record shall include rulings of the chair, questions of the commission and its counsel, testimony or responses of witnesses, sworn written statements submitted to the commission, and all other pertinent matters. A witness at a hearing, upon his advance request and at his own expense, shall be furnished a certified transcript of all testimony taken at the hearing.

(6) Before or during a hearing, any person noticed to appear before the commission, or his counsel, may file with the commission, for incorporation into the record of the hearing, sworn written statements relevant to the purpose, subject matter, and scope of the commission's investigation or inquiry. Any such person shall, however, prior to filing such statement, consent to answer questions from the commission regarding the contents of the statement.

(7) Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the commission and who, in the opinion of the commission, may be adversely affected thereby may, upon

his request or upon the request of any member of the commission, appear personally before the commission and testify on his own behalf or, with the commission's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing. Any such person shall, however, prior to filing such statement, consent to answer questions from the commission regarding the contents of the statement.

(8) Upon the consent of a majority of its members, the commission may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission shall limit in any way the commission's power of subpoena. Any such person shall, however, prior to filing such statement, consent to answer questions from the commission regarding the contents of the statement.

(9) Any person who appears before the commission pursuant to this section shall have all the rights, privileges, and responsibilities of a witness appearing before a court of competent jurisdiction.

(10) If the commission fails in any material respect to comply with the requirements of this section, any person subject to subpoena or subpoena duces tecum who is injured by such failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present, to testify or produce evidence therein; and such failure shall be a complete defense in any proceeding against such person for contempt or other punishment.

(11) Whoever willfully affirms or swears falsely in regard to any material matter or thing before the commission shall be guilty of a felony of the third degree and punished as provided by s. 775.082, s. 775.083, or s. 775.084.

(12) At the conclusion of its hearings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence presented at such hearings and shall proceed to determine by affirmative vote of a majority of the members present whether a violation of this chapter has occurred. Such determination shall promptly be made public. The order shall contain a finding of violation or no violation, together with brief findings of pertinent facts, and the assessment of such civil penalties as are permitted by this chapter or no such assessment and shall bear the signature or facsimile signature of the chairman or vice chairman.

*History.—*s. 26, ch. 73-128; s. 12, ch. 74-200; s. 60, ch. 77-175; s. 4, ch. 78-403; s. 64, ch. 79-400; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 21, ch. 89-256; ss. 6, 14, 15, ch. 90-338; s. 74, ch. 91-45.

*Note.—*Repealed effective October 1, 2000, by s. 15, ch. 90-338, and scheduled for review pursuant to s. 11.611.

1106.265 Civil penalties.—

(1) The commission is authorized upon the finding of a violation of this chapter to impose civil penalties in the form of fines not to exceed \$1,000 per count. In determining the amount of such civil penalties, the commission shall consider, among other mitigating and aggravating circumstances:

- (a) The gravity of the act or omission;
- (b) Any previous history of similar acts or omissions;

(c) The appropriateness of such penalty to the financial resources of the person, political committee, committee of continuous existence, or political party; and

(d) Whether the person, political committee, committee of continuous existence, or political party has shown good faith in attempting to comply with the provisions of this chapter.

(2) If any person, political committee, committee of continuous existence, or political party fails or refuses to pay to the commission any civil penalties assessed pursuant to the provisions of this section, the commission may bring an action in any circuit court of this state to enforce such penalty.

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

(4) Notwithstanding any other provisions of this chapter, any fine assessed pursuant to the provisions of this chapter, which fine is designated to be deposited or which would otherwise be deposited into the General Revenue Fund of the state, shall be deposited into the Election Campaign Financing Trust Fund.

*History.—*s. 61, ch. 77-175; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 4, ch. 86-276; ss. 7, 14, 15, ch. 90-338.

*Note.—*Repealed effective October 1, 2000, by s. 15, ch. 90-338, and scheduled for review pursuant to s. 11.611.

1106.27 Determinations by commission; legal disposition.—

(1) Criminal proceedings for violations of this chapter may be brought in the appropriate court of competent jurisdiction. Any such action brought under this chapter shall be advanced on the docket of the court in which filed and put ahead of all other actions.

(2) Civil actions may be brought by the commission for relief, including permanent or temporary injunctions, restraining orders, or any other appropriate order for the imposition of civil penalties provided by this chapter. Such civil actions shall be brought by the commission in the appropriate court of competent jurisdiction, and the venue shall be in the county in which the alleged violation occurred or in which the alleged violator or violators are found, reside, or transact business. Upon a proper showing that such person, political committee, committee of continuous existence, or political party has engaged, or is about to engage, in prohibited acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court, and the civil fines provided by this chapter may be imposed.

(3) Civil actions may be brought to enjoin temporarily the issuance of certificates of election to successful candidates who are alleged to have violated the provisions of this chapter. Such injunctions shall issue upon a showing of probable cause that such violation has occurred. Such actions shall be brought in the circuit court for the circuit in which is located the officer before whom the candidate qualified for office.

*History.—*s. 27, ch. 73-128; s. 13, ch. 74-200; s. 62, ch. 77-175; s. 1, ch. 82-46; s. 2, ch. 83-265; ss. 8, 14, 15, ch. 90-338.

*Note.—*Repealed effective October 1, 2000, by s. 15, ch. 90-338, and scheduled for review pursuant to s. 11.611.

106.28 Limitation of actions.—Actions for violation of this chapter must be commenced before 2 years have elapsed from the date of the violation.

History.—s. 28, ch. 73-128; s. 1, ch. 82-46; s. 2, ch. 83-266; s. 22, ch. 89-256; s. 14, ch. 90-338.

106.29 Reports by political parties; assessment on contributions.—

(1)(a) The state executive committee and each county executive committee of each political party regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding the first primary election, the second primary election, and the general election. Each state executive committee shall file the original and one copy of its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any political party failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late reports. No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Each state executive committee and county executive committee of each political party shall pay a 1.5 percent assessment on all contributions, excluding contributions received from political committees and committees of continuous existence and excluding in-kind contributions and filing fees. The assessment shall be remitted by the political party executive committee to the filing officer at the time contribution reports are due. The filing officer shall transfer the assessment revenues to the Division of Elections for deposit into the Election Campaign Financing Trust Fund.

(2) The chairman and treasurer of each committee shall certify as to the correctness of each report filed by them on behalf of such committee. Any committee chairman or treasurer who certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(4) No state or county executive committee, in the furtherance of any candidate or political party, directly or indirectly, shall give, pay, or expend any money, give or pay anything of value, authorize any expenditure, or become pecuniarily liable for any expenditure prohibited by this chapter. However, the contribution of funds by one executive committee to another, to established party organizations for legitimate party or campaign purposes, or to individual candidates of that party in general elections in amounts exceeding those set forth in s. 106.08 is not prohibited, but all such contributions shall

be recorded and accounted for in the reports of the contributor and recipient.

History.—s. 29, ch. 73-128; s. 14, ch. 74-200; s. 62, ch. 77-175; s. 65, ch. 79-400; ss. 14, 33, ch. 81-304; s. 1, ch. 82-46; s. 13, ch. 82-143; s. 2, ch. 83-265; s. 40, ch. 84-302; s. 23, ch. 89-256; s. 39, ch. 90-315; ss. 10, 14, ch. 90-338; ss. 8, 12, ch. 91-107.

106.295 Leadership fund.—

(1) For purposes of this section:

(a) "Leadership fund" means accounts comprised of any moneys contributed to a political party, directly or indirectly, which are designated to be used at the partial or total discretion of a leader.

(b) "Leader" means the President of the Senate, the Speaker of the House of Representatives, the majority leader and the minority leader of each house, and any person designated by a political caucus of members of either house to succeed to any such position.

(2) Leadership funds are prohibited in this state. No leader shall accept any leadership funds.

(3) This section applies to leadership funds in existence on or after January 1, 1990.

History.—s. 24, ch. 89-256.

106.30 Short title.—Sections 106.30-106.36 may be cited as the "Florida Election Campaign Financing Act."

History.—s. 1, ch. 86-276.

106.31 Legislative intent.—The Legislature finds that the costs of running an effective campaign for statewide office have reached a level which tends to discourage persons from becoming candidates and to limit the persons who run for such office to those who are independently wealthy, who are supported by political committees representing special interests which are able to generate substantial campaign contributions, or who must appeal to special interest groups for campaign contributions. The Legislature further finds that campaign contributions generated by such political committees are having a disproportionate impact vis-a-vis contributions from unaffiliated individuals, which leads to the misperception of government officials unduly influenced by those special interests to the detriment of the public interest. The Legislature intends ss. 106.30-106.36 to alleviate these factors, dispel the misperception, and encourage qualified persons to seek statewide elective office who would not, or could not, otherwise do so.

History.—s. 1, ch. 86-276.

106.32 Election Campaign Financing Trust Fund.—

(1) There is hereby established in the State Treasury an Election Campaign Financing Trust Fund to be utilized by the Department of State as provided in ss. 106.30-106.36. If necessary, each year in which a general election is to be held for the election of the Governor and Cabinet, additional funds shall be transferred to the Election Campaign Financing Trust Fund from general revenue in an amount sufficient to fund qualifying candidates pursuant to the provisions of ss. 106.30-106.36.

(2) Proceeds from filing fees pursuant to ss. 99.092, 99.093, and 105.031 shall be deposited into the Election Campaign Financing Trust Fund as designated in those sections.

(3) Proceeds from assessments pursuant to ss. 106.04, 106.07, and 106.29 shall be deposited into the Election Campaign Financing Trust Fund as designated in those sections.

History.—s. 1, ch. 86-276; s. 19, ch. 91-107.

106.33 Election campaign financing; eligibility.— Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate shall not be an unopposed candidate as defined in s. 106.011(15) and shall:

(1) Agree to abide by the expenditure limits provided in s. 106.34.

(2) Raise contributions as follows:

(a) \$150,000 for a candidate for Governor.

(b) \$100,000 for a candidate for Cabinet office.

(3) Limit loans or contributions from the candidate's personal funds to \$25,000 and contributions from national, state, and county executive committees of a political party to \$25,000 in the aggregate, which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2).

(4) Submit to a postelection audit of the campaign account by the division.

History.—s. 1, ch. 86-276; s. 40, ch. 90-315; s. 20, ch. 91-107.

106.34 Expenditure limits.—

(1) Any candidate for Governor and Lieutenant Governor or Cabinet officer who requests contributions from the Election Campaign Financing Trust Fund shall limit his total expenditures as follows:

(a) Governor and Lieutenant Governor: \$5 million.

(b) Cabinet officer: \$2 million.

(2) The expenditure limit for any candidate with primary election opposition only shall be 60 percent of the limit provided in subsection (1).

(3) The expenditure limit shall be adjusted by the Secretary of State quadrennially to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, 1967=100, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics.

(4) For the purposes of this section, the term "expenditure" does not include the payment of compensation for legal and accounting services rendered on behalf of a candidate.

History.—s. 1, ch. 86-276; s. 41, ch. 90-315; s. 21, ch. 91-107.

106.35 Distribution of funds.—

(1) The division shall review each request for contributions from the Election Campaign Financing Trust Fund and certify whether the candidate is eligible for

such contributions. Notice of the certification decision shall be provided to the candidate. An adverse decision may be appealed to the Florida Elections Commission. The division shall adopt rules providing a procedure for such appeals.

(2)(a) Each candidate who has been certified to receive contributions from the Election Campaign Financing Trust Fund shall be entitled to distribution of funds as follows:

1. For qualifying matching contributions making up all or any portion of the threshold amounts specified in s. 106.33(2), distribution shall be on a two-to-one basis.

2. For all other qualifying matching contributions, distribution shall be on a one-to-one basis.

(b) Qualifying matching contributions are those of \$250 or less from an individual, made after September 1 of the calendar year prior to the election. Aggregate contributions from an individual in excess of \$250 will be matched only up to \$250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.

(3)(a) Certification and distribution of funds shall be based on contributions to the candidate reported to the division for such purpose. The division shall review each report and verify the amount of funds to be distributed prior to authorizing the release of funds. The division may prescribe separate reporting forms for candidates for Governor and Cabinet officer.

(b) Notwithstanding the provisions of s. 106.11, a candidate who is eligible for a distribution of funds based upon qualifying matching contributions received and certified to the division on the report due on the 4th day prior to the election, may obligate funds not to exceed the amount which the campaign treasurer's report shows the candidate is eligible to receive from the Election Campaign Financing Trust Fund without the funds actually being on deposit in the campaign account.

(4) Distribution of funds shall be made within 7 days after the close of qualifying and every 7 days thereafter.

(5) The division shall adopt rules providing for the weekly reports and certification and distribution of funds pursuant thereto required by this section. Such rules shall, at a minimum, provide for:

(a) Specifications for printed campaign treasurer's reports outlining the format for such reports, including size of paper, typeface, color of print, and placement of required information on the form.

(b)1. Specifications for electronically transmitted campaign treasurer's reports outlining communication parameters and protocol, data record formats, and provisions for ensuring security of data and transmission.

2. All electronically transmitted campaign treasurer's reports must also be filed in printed format. Printed format shall not include campaign treasurer's reports submitted by electronic facsimile transmission.

History.—s. 1, ch. 86-276; s. 25, ch. 89-256; s. 42, ch. 90-315; s. 22, ch. 91-107.

106.353 Candidates voluntarily abiding by election campaign financing limits but not requesting public funds; irrevocable statement required; penalty.—

(1) Not later than qualifying for office, each candidate for the office of Governor or member of the Cabinet who has not made a request to receive contributions from the Election Campaign Financing Trust Fund, but who wishes to voluntarily abide by the applicable expenditure limit set forth in s. 106.34 and the contribution limits on personal and party funds set forth in s. 106.33, shall file an irrevocable statement to that effect with the Secretary of State.

(2) Any candidate who files such a statement and subsequently exceeds such limits shall pay to the Election Campaign Financing Trust Fund an amount equal to the amount of the excess contributions or expenditures. Such penalty shall not be an allowable campaign expense and shall be paid from personal funds of the candidate. However, if a nonparticipating candidate exceeds the expenditure limit as described in s. 106.355, a candidate signing the statement pursuant to this section may exceed the applicable expenditure limit to the extent the nonparticipating candidate exceeded the limit without being subject to a penalty.

*History.—*s. 23, ch. 91-107.

106.355 Nonparticipating candidate exceeding limits.—Whenever a candidate for the office of Governor or member of the Cabinet who has elected not to participate in election campaign financing under the provisions of ss. 106.30-106.36 exceeds the applicable expenditure limit provided in s. 106.34, all opposing candidates

participating in such election campaign financing are, notwithstanding the provisions of s. 106.33 or any other provision requiring adherence to such limit, released from such expenditure limit to the extent the nonparticipating candidate exceeded the limit, are still eligible for matching contributions up to such limit, and shall not be required to reimburse any matching funds provided pursuant thereto. In addition, the Department of State shall, within 7 days after a request by a participating candidate, provide such candidate with funds from the Election Campaign Financing Trust Fund equal to the amount by which the nonparticipating candidate exceeded the expenditure limit, not to exceed twice the amount of the maximum expenditure limits specified in s. 106.34(1)(a) and (b), which funds shall not be considered matching funds.

*History.—*s. 24, ch. 91-107.

106.36 Penalties; fines.—In addition to any other penalties which may be applicable under the election code, any candidate who receives contributions from the Election Campaign Financing Trust Fund and who exceeds the applicable expenditure limit, except as authorized in ss. 106.353 and 106.355, or falsely reports qualifying matching contributions and thereby receives contributions from the Election Campaign Financing Trust Fund to which he was not entitled shall be fined an amount equal to three times the amount at issue, which shall be deposited in the Election Campaign Financing Trust Fund.

*History.—*s. 1, ch. 86-276; s. 11, ch. 90-336; s. 25, ch. 91-107.

This information is available
in alternate format

