



State Affairs Committee

Thursday, March 14, 2013

9:00 AM

Morris Hall (17 HOB)

MEETING PACKET

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

State Affairs Committee

Start Date and Time: Thursday, March 14, 2013 09:00 am
End Date and Time: Thursday, March 14, 2013 01:00 pm
Location: Morris Hall (17 HOB)
Duration: 4.00 hrs

Consideration of the following bill(s):

CS/CS/HB 569 Florida Election Code by Appropriations Committee, Ethics & Elections Subcommittee, Schenck
CS/HB 7011 Florida Retirement System by Appropriations Committee, Government Operations Subcommittee,
Brodeur

Presentation by the State President of Florida Future Farmers of America

NOTICE FINALIZED on 03/12/2013 16:14 by Love.John



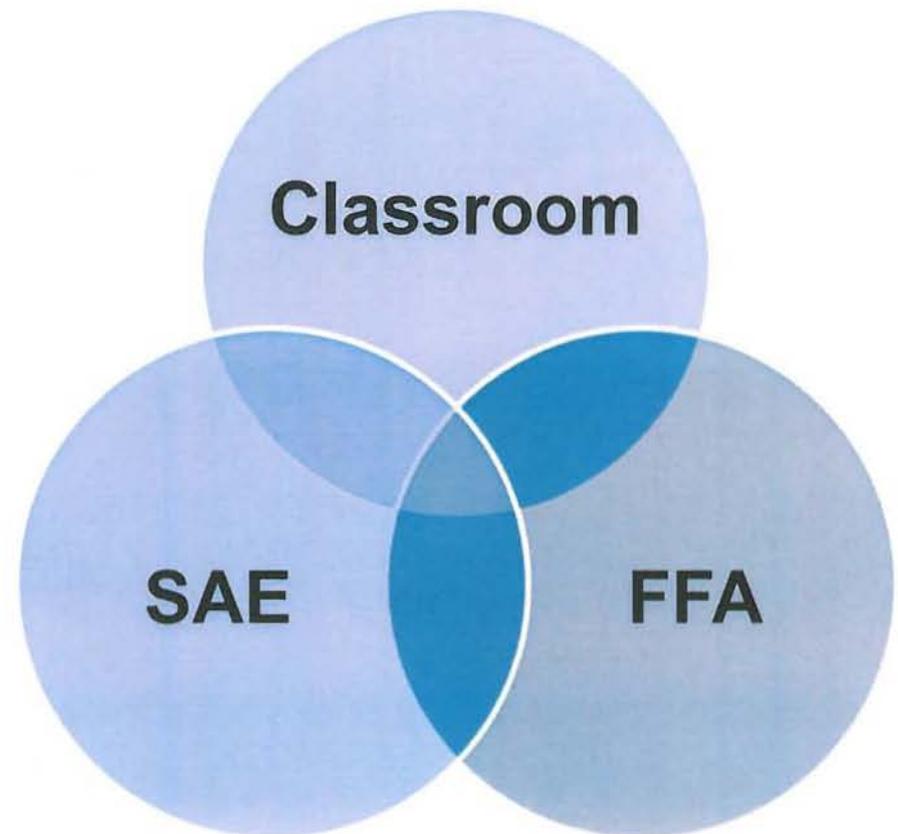
Agricultural Education in Florida

Clayton Willis, Florida FFA



Agricultural Education

- Classroom/Laboratory Instruction
- Work-based Learning (Supervised Agricultural Experience)
- Leadership Development (FFA)





Classroom/Laboratory Instruction

- Integrates academic concepts with technical agriculture skills
- Prepares students for work and postsecondary education in more than 300 careers
 - Animal Systems
 - Plant Systems
 - Food Products and Processing Systems
 - Power, Structural and Technical Systems
 - Natural Resource Systems
 - Environmental Service Systems
 - Agribusiness Systems





Supervised Agricultural Experience

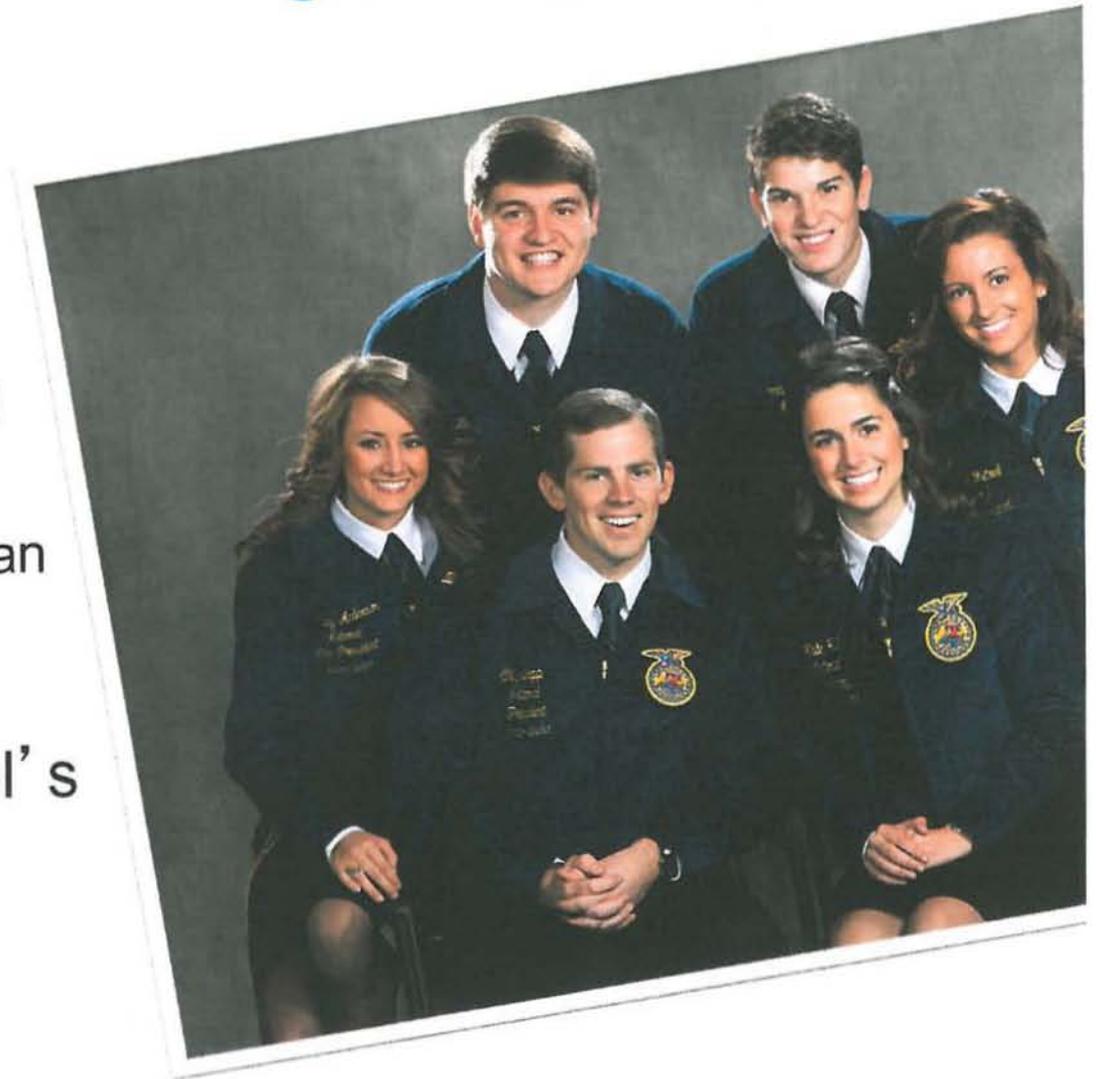
- Practical application of classroom/laboratory concepts conducted outside of class time
- Explore careers
 - Research
 - Placement
 - Ownership
- Earn money
- Learn work place skills
 - Team work
 - Responsibility
 - Communication skills





National FFA Organization

- Founded in 1928
- Chartered by U.S. Congress
- Approximately 540,379 members nationwide
 - 34% Urban and Suburban
 - 39% Rural, Non-Farm
 - 27% Rural, Farm
- Integral part of a school's agricultural education program





FFA Values

- Builds leadership skills for life
- Reinforces instruction
- Recognizes excellence
- Gives students opportunities to make a positive difference in their schools and communities



FFA Mission

FFA makes a positive difference in the lives of students by developing their potential for *premier leadership*, *personal growth*, and *career success* through agricultural education.





Florida FFA by the numbers

- Nearly 17,000 middle and high school members across the state
- Over 60,000 students enrolled in agricultural education
- Over 300 chapters
- Over 400 agriculture educators





Thank You

- On behalf of every Florida FFA member and agriculture student, thank you for all that you do for Florida FFA and agriculture education.



STATE AFFAIRS COMMITTEE

MARCH 13, 2013

	Issue	Provisions in CS/CS/HB 569	Provisions in CS/CS/HB 569 Strike All Amendment
1	Committees of Continuous Existence	<ul style="list-style-type: none"> • Requires the Division of Elections to notify CCEs of new laws by 7/15/13. • Prohibits acceptance of contributions by CCEs beginning 8/1/13. • Revokes all CCE certifications effective 9/30/13. • Requires CCEs to submit any outstanding reports after revocation. • All CCE statutes are deleted on 11/1/13 (The laws stay in place until 11/1 to help ensure that CCEs submit final reports). <p align="right">Sections 1, 2, 34</p>	Same
2	Limits on Contributions to Political Committees	Removes current \$500 limit to allow unlimited contributions to political committees. <p align="right">Section 14</p>	Same.
3	Limits on Campaign Contributions to Candidates	Increases limit from \$500 to \$10,000. <p align="right">Section 14</p>	<ul style="list-style-type: none"> • Increases limit from \$500 to: <ul style="list-style-type: none"> • \$5,000 for candidates for statewide office or retention as a Supreme Court justice. • \$3,000 for candidates for retention as a District Court of Appeal judge; candidates for legislative office, multicounty office, countywide office, county court judge, or circuit judge, and for candidates in any election conducted on less than a countywide basis. <p align="right">Section 14</p>
4	Candidates for Political Party Executive Committee	Not addressed.	Subjects candidates for political party executive committee to all campaign finance requirements in Chapter 106, e.g., contribution limits, reporting requirements, etc. <p align="right">Section 6</p>
5	Disclosures by Candidates, Political Committees, and ECOs that file with the Division of Elections	Requires submission of: <ul style="list-style-type: none"> • Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); • Weekly reports beginning on the 60th day before the primary, with the last weekly report due on the 11th day before the general election; and • Daily reports beginning on the 10th day before the general election, with the last report due on the day before the general election. <p align="right">Sections 11, 12</p>	Same
6	Disclosures by Candidates, Political Committees, and ECOs that do not file with the Division of Elections	For those who file reports with a supervisor of elections or municipal officer, requires submission of: <ul style="list-style-type: none"> • Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); and • Weekly reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election. <p align="right">Sections 11, 12</p>	Same
7	Statewide Campaign Finance Database	Requires the Division of Elections to submit a proposal to the House and Senate by 12/1/13 for a mandatory statewide electronic filing system for all state and local campaign filings required by the Florida Election Code. <p align="right">Section 32</p>	Requires the Division to also include filings reporting the disposition of campaign funds in its proposal for a mandatory statewide electronic filing system.

STATE AFFAIRS COMMITTEE

MARCH 13, 2013

	Issue	Provisions in CS/CS/HB 569	Provisions in CS/CS/HB 569 Strike All Amendment
8	Amount of Surplus Funds Transferred into an Office Account	Not addressed.	Increases the amount of surplus funds that may be transferred to an office account from: <ul style="list-style-type: none"> • \$20,000 to \$50,000 for candidates for statewide office. • \$5,000 to \$10,000 for candidates for multicounty office. • \$5,000 to \$10,000 multiplied by the number of years in the term of office for which elected, for candidates for legislative office. • \$2,500 to \$5,000 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 an election conducted on less than a countywide basis. • \$1,500 to \$3,000 for candidates for county court judge or circuit judge. <p align="right">Section 19</p>
9	Surplus Funds Given to Political Party or Affiliated Party Committee	Not addressed.	Limits surplus funds given to an affiliated party committee or political party of which the candidate is a member to \$50,000. <p align="right">Section 19</p>
10	Retention of Surplus Funds for Use in Future Election	<ul style="list-style-type: none"> • Allows a candidate elected to state office to retain up to \$100,000 in surplus campaign funds for use in the next election for the <i>same</i> office. • If the candidate does not run for the same office in the next election, the funds must be disposed of as usual. <p align="right">Section 19</p>	Allows a candidate elected to state office to retain up to \$50,000 in surplus campaign funds for use in the next election for the same office. <p align="right">Section 19</p>
11	Surplus Funds Used to Pay Election Assessment Fee	Not addressed.	Eliminates the requirement that a state or local candidate who qualified by the petition process and was not required to pay an election assessment or who filed an oath stating that he or she was unable to pay the assessment must reimburse the state or local government entity for the waived assessment prior to disposing of surplus campaign funds. <p align="right">Section 19</p>
12	Use of Funds in an Office Account	Not addressed.	Specifies that the following expenses may be paid out of an office account: <ul style="list-style-type: none"> • CPA services for preparation of the public official's financial disclosure filing. • Costs to prepare, print, produce, and mail holiday cards or newsletters about the elected public official's public business to constituents, so long as the correspondence does not constitute a political advertisement, independent expenditure, or electioneering communication. • Fees or dues to religious, civic, or charitable organizations of which the elected public official is a member. • Items of modest value such as flowers, greeting cards, or personal notes given as a substitute for, or in association with, an elected public official's personal attendance at special events or family occasions of constituents. • Personal expenses incurred in connection with attending a constituent meeting or event where public policy is discussed, if such meetings or events are limited to no more than once a week. <p align="right">Section 19</p>
13	Campaign Fund Raiser Political Disclaimers	Requires that tickets or advertising for campaign fund raisers comply with political advertisement disclaimers. <p align="right">Section 8</p>	Same

STATE AFFAIRS COMMITTEE

MARCH 13, 2013

	Issue	Provisions in CS/CS/HB 569	Provisions in CS/CS/HB 569 Strike All Amendment
14	Names of Campaign Accounts, Checks, and Debit Cards	Removes the requirement that the campaign account, checks, and debit cards contain the exact phrase "Campaign Account." Sections 10, 17	Same

Conforming Provisions	
CS/CS/HB 569	CS/SB 1382
<ul style="list-style-type: none"> • Sections 3-7, 9, 15, 16, 18, 20-31 • Section 33 appropriates funds to the Florida Elections Commission and the Division of Elections to carry out the provisions of this bill. 	<ul style="list-style-type: none"> • Sections 5, 6, 9, 14-30

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 569 Florida Election Code

SPONSOR(S): Appropriations Committee, Ethics & Elections Subcommittee and Schenck

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ethics & Elections Subcommittee	10 Y, 2 N, As CS	Davison	Marino
2) Appropriations Committee	15 Y, 10 N, As CS	Kramer	Leznoff
3) State Affairs Committee		Davison 	 Camechis

SUMMARY ANALYSIS

Campaign finance activities in Florida are primarily governed by chapter 106, Florida Statutes, which is part of the Florida Election Code. Specifically, the chapter regulates the campaign finance activities of candidates for state and local office, committees of continuous existence (CCEs), political committees (PCs), electioneering communications organizations (ECOs), affiliated party committees (APCs), and political parties. As of December 2012, there were approximately 670 CCEs, 260 PCs, and 155 ECOs. This bill changes several aspects of Florida's campaign finance laws, as follows:

Issue	Provisions in HB 569
Committees of Continuous Existence	<ul style="list-style-type: none"> • Requires the Division of Elections to notify CCEs of new laws by 7/15/13. • Prohibits acceptance of contributions by CCEs after 8/1/13. • Revokes all CCE certifications effective 9/30/13. • Requires submission of any outstanding reports after revocation. • All CCE statutes are deleted on 11/1/13 (The laws stay in place until 11/1 to help ensure that CCEs submit final reports).
Limits on Campaign Contributions to Candidates	Increases limit from \$500 to \$10,000 effective July 1, 2013.
Limits on Contributions to Political Committees	Removes current \$500 limit to allow unlimited contributions to political committees.
Retention of Surplus Funds	<ul style="list-style-type: none"> • Allows a candidate to retain up to \$100,000 in surplus campaign funds for use in the next election for the <i>same</i> office. • If the candidate does not run for the same office in the next election, the funds must be disposed of as usual.
Disclosures by Candidates, Political Committees, and ECOs that file with the Division of Elections	Requires submission of: <ul style="list-style-type: none"> • Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); • Weekly reports beginning on the 60th day before the primary, with the last weekly report due on the 11th day before the general election; and • Daily reports beginning on the 10th day before the general election, with the last report due on the day before the general election.
Disclosures by Candidates, Political Committees, and ECOs that file with a Supervisor of Elections or a municipal clerk	Requires submission of: <ul style="list-style-type: none"> • Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends); and • Weekly reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election.
Statewide Campaign Finance Database	Requires the Division of Elections to submit a proposal to the House and Senate by 12/1/13 for a mandatory statewide electronic filing system for all state and local campaign finance reports.
Campaign Fund Raisers and Accounts	Requires that tickets and advertising for campaign fund raisers contain sponsorship disclaimers and meet the other requirements applicable to political advertisements. Revises certain campaign account requirements.

This bill appropriates \$85,000 to the Division of Elections of the Department of State for two FTEs to implement reporting requirements imposed by this bill. This bill also appropriates \$42,900 for one FTE to the Florida Elections Commission to prepare additional cases as a result of the reporting requirements imposed by this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0569d.SAC

DATE: 3/12/2013

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

1. *Committees of Continuous Existence (CCEs)*

Current Situation

A CCE is a group, organization, association, or other such entity that is involved in making contributions to candidates, PCs, ECOs, other CCEs, or political parties.¹ A CCE may not make electioneering communications or independent expenditures.

An "independent expenditure" is defined as "an expenditure by a person for the purpose of expressly 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."²

An electioneering communication is defined by Florida law as "any communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone" that:

- A. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
- B. Is made within 30 days before a primary election or 60 days before a general election; and
- C. Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.³

An organization that registers as a CCE may exist for purposes other than influencing the outcome of an election in Florida, and may make expenditures of funds for non-election related activities.⁴ However, if an entity wishes to conduct political activities as a CCE, it must apply for and receive certification from the Division of Elections.⁵

CCEs are required to file periodic reports of contributions received and expenditures made.⁶ CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than \$250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying members.⁷

Effect of Proposed Changes

This bill establishes a process to eliminate CCEs. As of August 1, 2013, CCEs are not permitted to accept contributions as that term is defined in the Florida Election Code,⁸ and on September 30, 2013, all CCE certifications are revoked. Before revocation, CCEs must disburse funds as currently authorized by law. In order to provide sufficient notice to CCEs in advance of revocation, the Division of Elections is required to notify CCEs of the new laws by July 15, 2013. Even though CCE certifications are revoked by operation of law on September 30, 2013, s. 106.04, F.S., which governs CCEs, remains effective until November 1, 2013. Therefore, a CCE whose certification is revoked on September 30, 2013, must

¹ § 106.04(1), F.S.

² § 106.011(5)(a), F.S.

³ § 106.011(18), F.S.

⁴ § 106.04(5), F.S.

⁵ *Id.*

⁶ Please see Section 4 of this analysis for a discussion of the frequency of campaign finance reporting.

⁷ §§ 106.04(4)(b)1. and 106.04(4)(c)1., F.S.

⁸ "Contribution" is defined in § 106.011(3), F.S., as: (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 or making an electioneering communication. (b) A transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combination of these groups. (c) The payment, by any person other than a candidate or political committee, of compensation for the personal 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 term may 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 or editorial endorsements.

file required campaign finance reports, including the report due in October 2013 for the third quarter of 2013, disclosing contributions received and expenditures made that have not been previously reported.

The following table describes the current law and the effect of the bill's proposed changes:

Committees of Continuous Existence		
	Current Law	Effect of Proposed Changes
Political Purpose	To make contributions to candidates, political committees, CCEs, ⁹ ECOs, or political parties. ¹⁰	This bill eliminates CCEs.
Limits on Contributions to a CCE	There are no limits as long as the CCE maintains the following organizational requirements: <ul style="list-style-type: none"> • Must be organized and operated under a written charter or bylaws specifying procedures for the election of officers and defining membership.¹¹ • At least 25% of the income, excluding interest, of the organization must come from dues of members.¹² 	
Limits on Contributions by a CCE	<ul style="list-style-type: none"> • \$500 maximum to each candidate or political committee supporting candidates.¹³ • No limit on contributions to ECOs, CCEs, political committees, or political parties. • 25% of annual income to a political committee supporting or opposing issues.¹⁴ 	
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May contribute to candidates, ECOs, CCEs, political committees, and political parties. • May not make electioneering communications or independent expenditures.¹⁵ • In order to directly support or oppose an issue, a CCE must register as a political committee.¹⁶ 	

2. Electioneering Communications Organizations (ECOs)

Current Situation

At the federal level, ECOs were first extensively regulated by the Bipartisan Campaign Reform Act of 2002 (the McCain-Feingold Act).¹⁷ After these provisions were upheld, Florida adopted similar standards for electioneering communications. Florida's initial attempt was struck down on First Amendment grounds in 2008,¹⁸ but the revised version was upheld on appeal in 2012 and remains the current law.¹⁹

Effect of Proposed Changes

The following table describes the current law and effect of the bill's proposed changes as they relate to ECOs:

Electioneering Communications Organizations		
	Current Law	Effect of Proposed Changes
Purpose	Any group, other than a political party, political committee, or CCE, whose election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and whose activities would not otherwise require the group to register as a political party, political committee, or committee of continuous existence under chapter 106, F.S. ²⁰	No change.
Limits on Contributions to an ECO	No limit on any contributions to an ECO.	No change.
Limits on Contributions by an ECO	May NOT contribute to candidates, political parties, political committees, or CCEs. ²¹	No change.
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May make electioneering communications, but may not "expressly advocate" the election or defeat of a candidate. • May NOT make independent expenditures. 	No change.
Disclosure Requirements	Generally, except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of each calendar quarter from the time the ECO registers, except if the 10th day is a Saturday, Sunday, or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday, or legal holiday. Following the last day of qualifying, the reports must be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. ²²	Increases the frequency of campaign finance disclosure reporting. Please see discussion of reporting requirements under Section 4 of this analysis.

⁹ DEO 76-31.

¹⁰ § 106.04(1), F.S.

¹¹ § 106.04(1)(a), F.S.

¹² § 106.04(1)(b), F.S.

¹³ § 106.08, F.S.

¹⁴ § 106.04(5), F.S.

¹⁵ § 106.04(5); DEO 04-09.

¹⁶ § 106.04(5), F.S.

¹⁷ 2 U.S.C.A. § 431.

¹⁸ See *Broward Coalition of Condominiums v. Browning*, 2009 WL 1457972 (N.D. Fla. 2009).

¹⁹ See *National Organization for Marriage, Inc. v. Secretary, State of Fla.*, 447 Fed. Appx. 584 (11th Cir. 2012).

²⁰ § 106.011(19).

²¹ *Id.*

²² § 106.0703(1)(a)-(b).

3. Political Committees (PCs)

Current Situation

A "political committee" is defined by Florida law as a combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

- a) Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party;
- b) Accepts contributions for the purpose of *expressly advocating* the election or defeat of a candidate or the passage or defeat of an issue;
- c) Makes expenditures that *expressly advocate* the election or defeat of a candidate or the passage or defeat of an issue; or
- d) Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party.²³

A "political advertisement" is "a paid expression in any communications media...which *expressly advocates* the election or defeat of a candidate or the approval or rejection of an issue."²⁴ "Express advocacy" is defined as "[c]ommunications that in express terms advocate the election or defeat of a clearly identified candidate."²⁵

Effect of Proposed Changes

The following table describes the current law and effect of the bill's proposed changes with regard to political committees:

Political Committees		
	Current Law	Effect of Proposed Changes
Purpose	A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year, accepts contributions to support or oppose any candidate, issue, political committee, CCE, ECO, or political party. ²⁶	No change (other than the elimination of CCEs).
Limits on Contributions to a PC	<ul style="list-style-type: none"> • No limit to a political committee supporting or opposing issues only.²⁷ • \$500 per election limit to a political committee supporting or opposing one or more candidates.²⁸ • \$500 per election limit to a political committee supporting or opposing both candidates and issues.²⁹ • Limits do not apply to contributions from political parties.³⁰ 	The bill allows unlimited contributions to any PC.
Limits on Contributions by a PC	<ul style="list-style-type: none"> • To a candidate - \$500 per election. • In support of or in opposition to issues, or to a political party, CCE, or ECO - no limit.³¹ 	PCs may contribute up to \$10,000 to a candidate per election.
Permissible and Prohibited Activities	<ul style="list-style-type: none"> • May contribute to candidates, ECOs, CCEs, PCs, APCs, and political parties. • May make independent expenditures and electioneering communications.³² 	No change (other than the elimination of CCEs).
Disclosure Requirements	Generally, except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of each calendar quarter from the time the political committee registers, except if the 10th day is a Saturday, Sunday, or legal holiday, the report must be filed on the next business day that is not a Saturday, Sunday, or legal holiday. In an election year, reports must also be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. ³³	Increases the frequency of campaign finance disclosure reporting. Please see discussion of reporting requirements under Section 4 of this analysis.

4. Frequency of Campaign Finance Reporting

Current Situation

In Florida, candidates, political committees, electioneering communications organizations, and committees of continuous existence³⁴ are required to file periodic reports of contributions received and expenditures made. CCEs are not required to provide a detailed list of members paying dues so long as each member pays no more than \$250 in dues per calendar year; rather, CCEs are only required to report the total amount of dues collected and the total number of dues-paying

²³ § 106.011(1), F.S.

²⁴ § 106.011(17), F.S.

²⁵ *Buckley v. Valeo*, 424 U.S. 1, 44 (1976).

²⁶ § 106.011(1)(a), F.S.

²⁷ § 106.08, F.S.

²⁸ § 106.08(1)(a), F.S.

²⁹ § 106.08, F.S.

³⁰ *Id.*

³¹ § 106.08, F.S.

³² § 106.011, F.S.

³³ § 106.07, F.S.

³⁴ In addition to the reporting requirements applicable to all candidates, CCEs, PCs, and ECOs, CCEs are also required to file annual reports in January of each year.

members.³⁵ Except for the third calendar quarter immediately preceding a general election, reports must be filed on the 10th day following the end of *each calendar quarter* from the time the campaign treasurer is appointed.³⁶ Quarterly reports must include all contributions received and expenditures made during the calendar quarter. In an election year, reports containing this information must also be filed every other week on the 32nd, 18th, and 4th days immediately preceding the primary and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election. Any statewide candidate who has requested to receive contributions pursuant to the Florida Election Campaign Financing Act or any statewide candidate in a race with a candidate who has requested to receive contributions must also file weekly reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the general election. In addition, there are different filing requirements during special elections.³⁷

Reports are filed either with the Division of Elections, a Supervisor of Elections, or a municipal clerk as follows:

- *Candidates*: Reports are filed with the officer before whom the candidate qualifies. Candidates filing reports with the Division of Elections are required to electronically file by means of the Electronic Filing System.
- *Political Committees*: Reports are electronically filed with the Division of Elections if the PC supports or opposes statewide, legislative, or multicounty candidates or issues; with the Supervisor of Elections if the PC supports or opposes candidates or issues in a countywide or less than a countywide election, except municipal; or with the municipal clerk if the PC supports or opposes only municipal candidates or issues.
- *Committees of Continuous Existence*: Reports are filed electronically with the Division of Elections.
- *Electioneering Communications Organizations*: Reports are electronically filed with the Division of Elections if the ECO relates to statewide, legislative, or multicounty candidates; with the Supervisor of Elections if the ECO relates to candidates in a countywide or less than a countywide election, except municipal; or with the municipal clerk if the ECO relates to only municipal candidates.³⁸

While reports filed with the Division of Elections are submitted electronically, reports filed at the local level are frequently filed on paper forms rather than electronically.

Effect of Proposed Changes

The bill eliminates committees of continuous existence and all associated reporting requirements.

For candidates, political committees, and electioneering communications organizations that file campaign finance reports with the Division of Elections, the bill increases the frequency of reporting by requiring submission of:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Weekly reports beginning on the 60th day before the primary, with the last weekly report due on the 11th day before the general election;
- Daily reports beginning on the 10th day before the general election, with the last report due on the day before the general election.

If these reporting requirements had been in effect in 2012, a maximum of 36 reports would have been required rather than the current maximum of 9.

For candidates, political committees, and electioneering communications organizations that file reports with a Supervisor of Elections or a municipal clerk, the bill increases the frequency of reporting by requiring submission of:

- Monthly contribution and expenditure reports until the 60th day before the primary (7 days after qualifying ends);
- Weekly reports beginning on the 60th day before the primary, with the last weekly report due on the 4th day before the general election.

If these reporting requirements had been in effect in 2012, a maximum of 27 reports would have been required rather than the current maximum of 9.

³⁵ §§ 106.04(4)(b)1. and 106.04(4)(c)1., F.S.

³⁶ §§ 106.07(1), 106.07(1)(a), 106.07(1)(b), and 106.0703, F.S. Quarterly reports are due on the 10th day after the quarter, unless the 10th day is a Saturday, Sunday, or legal holiday, in which case the report is due on the next business day.

³⁷ § 106.07, F.S.

³⁸ §§ 106.0705 and 106.07(2), F.S.

This bill also requires the Division of Elections to submit to the Florida Legislature, by December 1, 2013, a proposal for creating a mandatory electronic filing system for all state and local campaign finance reports required by ss. 106.07, 106.0703 or 106.29, F.S.

5. Campaign Contribution Limits

Current Situation

Most states place some sort of limit on contributions to candidates from various sources, and also on contributions to political committees and political parties.³⁹ Four states—Missouri, Oregon, Utah, and Virginia—place no limits on contributions. Seven states—Alabama, Indiana, Iowa, Mississippi, North Dakota, Pennsylvania, and Texas—place few limits on contributions. These seven states allow unlimited contributions from all sources, but prohibit contributions by corporations and unions to candidates. The remaining states typically limit contributions to candidates from individuals, political parties, political committees, corporations, and unions. Sometimes contributions are prohibited outright, particularly contributions from corporations and unions. Limitations are also commonly placed on cash contributions, contributions by minors, and contributions to political committees and political parties made during the legislative session.

In addition, there are limitations applicable to candidates for federal office. According to the Federal Elections Commission, the federal contribution limits for 2013-2014 are as follows:⁴⁰

	To each candidate or candidate committee per election	To national party committee per calendar year	To state, district & local party committee per calendar year	To any other political committee per calendar year ^[1]	Special Limits
Individual may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	\$123,200* overall biennial limit: • \$48,600* to all candidates • \$74,600* to all PACs and parties ^[2]
National Party Committee may give	\$5,000	No limit	No limit	\$5,000	\$45,400* to Senate candidate per campaign ^[3]
State, District & Local Party Committee may give	\$5,000 (combined limit)	No limit	No limit	\$5,000 (combined limit)	No limit
PAC (multicandidate) ^[4] may give	\$5,000	\$15,000	\$5,000 (combined limit)	\$5,000	No limit
PAC (not multicandidate) may give	\$2,600*	\$32,400*	\$10,000 (combined limit)	\$5,000	No limit
Authorized Campaign Committee may give	\$2,000 ^[5]	No limit	No limit	\$5,000	No limit

* These contribution limits are increased for inflation in odd-numbered years.

1. A contribution earmarked for a candidate through a political committee counts against the original contributor's limit for that candidate. In certain circumstances, the contribution may also count against the contributor's limit to the PAC. 11 CFR 110.6. See also 11 CFR 110.1(h).

2. No more than \$48,600 of this amount may be contributed to state and local party committees and PACs.

3. This limit is shared by the national committee and the Senate campaign committee.

4. A multicandidate committee is a political committee with more than 50 contributors which has been registered for at least 6 months and, with the exception of state party committees, has made contributions to 5 or more candidates for federal office. 11 CFR 100.5(e)(3).

5. A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. 432(e)(3)(B).

Effect of Proposed Changes

The table below summarizes Florida's current campaign contribution limits and the effect of the bill's proposed changes:

CAMPAIGN CONTRIBUTION LIMITS IN FLORIDA ⁴¹			
	Current Limit		Effect of Proposed Changes
Candidates	From any one person, PC, or CCE	\$500 per election	<ul style="list-style-type: none"> Increases the limit to \$10,000 per election. Contributions will no longer be available from CCEs because CCEs are eliminated by this bill.
	From a PP or APC to a candidate for statewide office	\$250,000 per election, in the aggregate	No change.
	From a PP or APC to any other candidate	\$50,000 per election, in the aggregate	No change.
Political Committees (PCs)	To a PC supporting or opposing issues only	No limit	No change.

³⁹ Information in this paragraph was obtained in *Contribution Limits: An Overview*, National Conference of State Legislatures, Oct. 31, 2011, <http://www.ncsl.org/legislatures-elections/elections/campaign-contribution-limits-overview.aspx>.

⁴⁰ This table was obtained from the Federal Elections Commission website on February 6, 2013. *Contribution Limits 2013-2014*, <http://www.fec.gov/pages/brochures/contriblimits.shtml>.

⁴¹ § 106.08, F.S.

Political Committees (PCs)	To a PC supporting or opposing one or more candidates	\$500 per election	Allows unlimited contributions to all PCs.
	To a PC supporting or opposing both candidates and issues	\$500 per election	Allows unlimited contributions to all PCs.
	Contributions from political parties	No limit	No change.
Electioneering Communications Organizations (ECOs)	No limit on any contributions to an ECO		No change.
Committees of Continuous Existence (CCEs)	No limit on any contributions to a CCE		This bill eliminates CCEs.
Political Parties (PPs)	No limit on any contributions to a PP		No change.
Affiliated Party Committees (APCs)	No limit on any contributions to an APC		No change.

6. Surplus Campaign Funds

Current Situation

Section 106.141, F.S., governs the disposal of surplus campaign funds. That section requires a candidate to dispose of all funds remaining in his or her campaign account and file a report within 90 days after the candidate is elected or eliminated, becomes unopposed, or withdraws from the election. A candidate may dispose of surplus funds in any of the following methods, or any combination thereof:⁴²

1. Return funds on a pro rata basis to each contributor.
2. Donate funds to s. 501(c)(3) charitable organizations.
3. Contribute funds to an affiliated party committee or the candidate's political party.
4. For statewide candidates, give funds to the state for use in the Election Campaign Financing Trust Fund or the General Revenue Fund.
5. For candidates for office in a political subdivision, give funds to the political subdivision for deposit in the general fund.
6. Transfer funds to an office account.⁴³

Several states, including Delaware,⁴⁴ Maine,⁴⁵ South Carolina,⁴⁶ and Washington,⁴⁷ allow candidates to use remaining campaign funds for future elections. However, other states, such as Connecticut⁴⁸ and Montana,⁴⁹ expressly prohibit the use of remaining campaign funds for future elections.

Candidates for federal office are permitted to use surplus campaign funds for future federal elections.⁵⁰

Effect of Proposed Changes

In addition to the present permissible methods of disposing of surplus campaign funds described above, this bill allows a candidate to retain up to \$100,000 in the candidate's campaign account for use in the candidate's next campaign for the same office.

Candidates who do not qualify for the same office in the next election for that office are required to dispose of the retained funds within 90 days in one of the methods described above.

7. Campaign Fund Raisers and Political Advertisements

Current Situation

A campaign fund raiser may not be held unless the person for whom the funds are to be used is a candidate for public office.⁵¹ All money and contributions received during a campaign fund raiser are considered campaign contributions subject to

⁴² § 106.141(4)(a), F.S.

⁴³ Section 106.141(5), F.S., permits a candidate elected to office to transfer surplus campaign funds to an office account, which may be used for "legitimate expenses in connection with the candidate's public office." The amount that may be transferred to an office account varies depending upon the office to which the candidate is elected.

⁴⁴ DEL. CODE ANN. § 8022.

⁴⁵ ME. REV. STAT. tit. 21-A, § 1017(8).

⁴⁶ S.C. CODE ANN. § 8-13-1370.

⁴⁷ WASH. REV. CODE § 42.17A.430.

⁴⁸ CONN. GEN. STAT. § 9-608(e)(A)(i).

⁴⁹ MONT. CODE ANN. § 13-37-240; MONT. ADMIN. R. 44-10-335.

⁵⁰ See 11 C.F.R. §§ 110.3(c)(4), 110.1(b)(3)(ii) and 116.2(c)(2); Federal Elections Commission Advisory Opinion 1980-30.

the same requirements as other campaign contributions.⁵² In 2011, the Florida Legislature deleted a statutory requirement that campaign fund raiser tickets and advertising comply with the disclaimer requirements applicable to political advertisements.⁵³ As a result, such tickets and advertisements are exempt from sponsorship disclaimer requirements, unless they otherwise meet the definition of a political advertisement.⁵⁴

Political advertisements are governed by section 106.143, F.S., which requires certain sponsorship disclaimers and disclosures for any paid political advertisement that is published, displayed, or circulated on or before election day.⁵⁵ The requirements of that section may be summarized as follows:

1. Any political advertisement that is paid for by a candidate, except a write-in candidate, and that is published, displayed, or circulated before, or on the day of, any election must prominently state:
 - A. "Political advertisement paid for and approved by (name of candidate) , (party affiliation) , for (office sought) "; or
 - B. "Paid by (name of candidate) , (party affiliation) , for (office sought) ."
2. Any political advertisement that is paid for by a write-in candidate and that is published, displayed, or circulated before, or on the day of, any election must prominently state:
 - A. "Political advertisement paid for and approved by (name of candidate) , write-in candidate, for (office sought) "; or
 - B. "Paid by (name of candidate) , write-in candidate, for (office sought) ."
3. Any other political advertisement published, displayed, or circulated before, or on the day of, any election must prominently:
 - A. Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."
 - B. State the name and address of the persons paying for the advertisement.
 - C. 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.
4. Any political advertisement of a candidate running for partisan office must 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 a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation. A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation. However, a political advertisement may state the candidate's partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

Effect of Proposed Changes

This bill reinstates the statutory requirement that tickets and advertising for campaign fund raisers must contain sponsorship disclaimers and meet the other requirements applicable to political advertisements in s. 106.143, F.S., as described above.

8. Campaign Accounts

Current Situation

Section 106.05, F.S., requires all funds received by the campaign treasurer of any candidate or political committee to be deposited into a campaign depository in an account designated "(name of candidate or committee) Campaign Account."

Section 106.11, F.S., requires that all checks drawn on the campaign depository and all debit cards contain the statement "(name of candidate or political committee) Campaign Account."

Effect of Proposed Changes

⁵¹ § 106.025, F.S.

⁵² *Id.*

⁵³ Ch. 2001-40, § 56 Laws of Fla.

⁵⁴ A "political advertisement" is "a paid expression . . . which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue." § 106.011(17), F.S.

⁵⁵ § 106.143(1), F.S.

This bill removes the requirement that the campaign account, and checks and debit cards associated therewith, contain the exact phrase "Campaign Account"; however, the name of the candidate or committee must still appear on the campaign account, checks, and debit cards.

B. SECTION DIRECTORY:

Section 1 repeals s. 106.04, F.S., relating to the certification and political activities of committees of continuous existence.

Section 2 creates an unnumbered section of law, prohibiting a committee of continuous existence from accepting a contribution after a certain date; providing for revocation of the certification of each committee of continuous existence on a certain date; requiring the Division of Elections of the Department of State to provide certain notifications to committees of continuous existence.

Section 3 amends s. 101.62, F.S., conforming provision.

Section 4 amends s. 102.031, F.S., conforming provision.

Section 5 amends s. 111.075, F.S., conforming provision.

Section 6 amends and reorders s. 106.011, F.S., relating to definitions applicable to provisions governing campaign financing; deleting the definition of the term "committee of continuous existence," to conform; conforming provisions and cross-references.

Section 7 amends s. 106.022, F.S., conforming provision.

Section 8 amends s. 106.025, F.S., relating to campaign fund raisers to require tickets or advertising to comply with requirements for campaign fund raisers.

Section 9 amends s. 106.03, F.S., conforming cross-references.

Section 10 amends s. 106.05, F.S., relating to deposit of campaign contributions to require account to contain the name of the candidate.

Section 11 amends s. 106.07, F.S., revising reporting requirements for candidates and political committees; conforming provisions.

Section 12 amends s. 106.0703, F.S., revising reporting requirements for electioneering communications organizations.

Section 13 amends s. 106.0705, F.S., conforming provisions and cross-references.

Section 14 amends s. 106.08, F.S., revising limitations on campaign contributions; authorizing candidates to contribute to other candidates.

Section 15 amends s. 106.08, F.S., conforming provisions and cross-reference.

Section 16 amends s. 106.087, F.S., conforming provisions.

Section 17 amends s. 106.11, F.S., requiring checks to contain certain information.

Section 18 amends s. 106.12, F.S., conforming provisions and cross-reference.

Section 19 amends s. 106.141, F.S., providing for retention of surplus campaign funds by a candidate for specified purposes; providing reporting requirements for surplus campaign funds; providing for disposition of the funds.

Section 20 amends s. 106.147, F.S., conforming provisions.

Section 21 amends s. 106.17, F.S., conforming provisions.

Section 22 amends s. 106.23, F.S., conforming provisions.

Section 23 amends s. 106.265, F.S., conforming provisions.

Section 24 amends s. 106.27, F.S., conforming provisions.

Section 25 amends s. 106.32, F.S., conforming cross-reference.

Section 26 amends s. 106.33, F.S., conforming cross-reference.

Section 27 amends s. 112.3148, F.S., conforming provisions.

Section 28 amends s. 112.3149, F.S., conforming provisions.

Section 29 amends s. 1004.28, F.S., conforming provision.

Section 30 amends s. 1004.70, F.S., conforming provision.

Section 31 amends s. 1004.71, F.S., conforming provision.

Section 32 creates an unnumbered section of law, directing the Division of Elections to submit a proposal to the Legislature for a mandatory statewide electronic filing system.

Section 33 provides an appropriation.

Section 34 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: *Department of State*: According to the Department of State, the increase in the number of campaign finance reports filed with the Division of Elections will increase their workload, requiring two FTEs and a recurring fiscal impact of \$85,000. The Department asserts that, "[t]he increase in reports would cause an increase in fail to file letters, fine letters, incomplete report letters and Election Commission referrals. All of these documents must be scanned and posted to the web. One entry level FTE would be required to handle incomplete letters and Election Commission referrals. One additional FTE would be required to handle fail to file letters, scanning and posting the letters to the web and to handle the increased traffic on the help desk answering phone calls. In total if you take an average salary of \$30,000 for each FTE plus benefits would total \$85,000."

The Department of State intends to produce the report on the feasibility of a statewide database using current resources, so production of the report should not have a fiscal impact on the department.

The bill authorizes two full-time equivalent positions, with associated salary rate of 57,297 and appropriates \$85,000 in recurring funds from the General Revenue Fund to the Division of Elections of the Department of State to carry out the provisions of this bill.

Florida Elections Commission: According to the Florida Elections Commission (Commission), the increase in campaign finance reports filed will increase the number of cases against candidates, political committees, and electioneering communications organizations that fail to file reports. The Commission also expects the increase in reports will increase the number of cases appealing fines imposed for late filing of reports. According to the Commission, investigating and preparing these cases for presentation to the Commission requires one additional FTE at a salary of \$33,000, plus benefits for a total cost of \$42,900.

The bill authorizes one full-time equivalent position, with associated salary rate of 33,000 and appropriates \$42,000 in recurring funds from the Elections Commission Trust Fund within the Department of Legal Affairs to the Florida Elections Commission to carry out the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: The supervisors of elections and municipal clerks will receive and process more campaign finance reports, but the fiscal impact is indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased frequency of reporting may result in increased preparation costs for candidates seeking public office and private entities operating as political committees or electioneering communications organizations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: The mandates provision does not apply to this bill because subsection 18(d) of Article VII, Fla. Const., explicitly exempts election laws from the provision.

2. Other: None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 11, 2013, the Ethics & Elections Subcommittee adopted two amendments, the effect of which was to eliminate language authorizing a candidate to use campaign funds to make a campaign contribution to another candidate.

On February 21, 2013, the Appropriations Committee adopted four amendments. The amendments:

- Appropriated funds and authorized FTEs which were requested by the Division of Elections and the Florida Elections Commission to carry out the provisions of the bill;
- Changed the effective date of one section of the bill;
- Clarified that the Department of State study regarding the feasibility of a statewide database will only include state and local campaign finance reports rather than all elections filings;
- Amended ss. 106.025, 106.05, and 106.11, F.S. to require tickets or advertising for a campaign fund raiser to comply with the requirements of political advertisements and revised certain campaign account requirements.

This analysis is drafted to the bill as amended.

1 A bill to be entitled
 2 An act relating to the Florida Election Code;
 3 repealing s. 106.04, F.S., relating to the
 4 certification and political activities of committees
 5 of continuous existence; prohibiting a committee of
 6 continuous existence from accepting a contribution
 7 after a certain date; providing for revocation of the
 8 certification of each committee of continuous
 9 existence on a certain date; requiring the Division of
 10 Elections of the Department of State to provide
 11 certain notifications to committees of continuous
 12 existence; amending ss. 101.62, 102.031, and 111.075,
 13 F.S.; conforming provisions; amending and reordering
 14 s. 106.011, F.S., relating to definitions applicable
 15 to provisions governing campaign financing; deleting
 16 the definition of the term "committee of continuous
 17 existence," to conform; conforming provisions and
 18 cross-references; amending s. 106.022, F.S.;
 19 conforming a provision; amending s. 106.025, F.S.;
 20 providing that tickets or advertising for a campaign
 21 fund raiser must comply with the requirements of
 22 political advertisements circulated before an
 23 election; amending s. 106.03, F.S.; conforming cross-
 24 references; amending s. 106.05, F.S.; revising the
 25 information that is required to appear on a campaign
 26 bank account for deposit of funds; amending s. 106.07,
 27 F.S.; revising reporting requirements for candidates
 28 and political committees; conforming provisions;

29 amending s. 106.0703, F.S.; revising reporting
 30 requirements for electioneering communications
 31 organizations; amending s. 106.0705, F.S.; conforming
 32 provisions and cross-references; amending s. 106.08,
 33 F.S.; revising limitations on campaign contributions;
 34 conforming provisions and a cross-reference; amending
 35 s. 106.087, F.S.; conforming provisions; amending s.
 36 106.11, F.S.; revising the information that is
 37 required to appear on bank account checks of
 38 candidates or political committees; revising
 39 information used to determine when debit cards are
 40 considered bank checks; amending s. 106.12, F.S.;
 41 conforming a cross-reference; amending s. 106.141,
 42 F.S.; providing for retention of surplus campaign
 43 funds by a candidate for specified purposes; providing
 44 reporting requirements for surplus campaign funds;
 45 providing for disposition of the funds; amending ss.
 46 106.147, 106.17, 106.23, 106.265, 106.27, 106.32,
 47 106.33, 112.3148, 112.3149, 1004.28, 1004.70, and
 48 1004.71, F.S.; conforming provisions and cross-
 49 references; directing the Division of Elections to
 50 submit a proposal to the Legislature for a mandatory
 51 statewide electronic filing system; providing
 52 appropriations; providing effective dates.

53
 54 Be It Enacted by the Legislature of the State of Florida:

55
 56 Section 1. Section 106.04, Florida Statutes, is repealed.

57 Section 2. (1) Effective August 1, 2013, a committee of
 58 continuous existence may not accept a contribution as defined in
 59 s. 106.011, Florida Statutes. By July 15, 2013, the Division of
 60 Elections of the Department of State shall notify each committee
 61 of continuous existence of the prohibition on accepting such a
 62 contribution as provided in this subsection.

63 (2) Effective September 30, 2013, the certification of
 64 each committee of continuous existence is revoked. By July 15,
 65 2013, the Division of Elections of the Department of State shall
 66 notify each committee of continuous existence of the revocation
 67 of its certification pursuant to this subsection. Following such
 68 revocation of certification, each committee of continuous
 69 existence shall file any outstanding report as required by law.

70 (3) This section shall take effect upon this act becoming
 71 a law.

72 Section 3. Subsection (3) of section 101.62, Florida
 73 Statutes, is amended to read:

74 101.62 Request for absentee ballots.—

75 (3) For each request for an absentee ballot received, the
 76 supervisor shall record the date the request was made, the date
 77 the absentee ballot was delivered to the voter or the voter's
 78 designee or the date the absentee ballot was delivered to the
 79 post office or other carrier, the date the ballot was received
 80 by the supervisor, and such other information he or she may deem
 81 necessary. This information shall be provided in electronic
 82 format as provided by rule adopted by the division. The
 83 information shall be updated and made available no later than 8
 84 a.m. of each day, including weekends, beginning 60 days before

85 the primary until 15 days after the general election and shall
 86 be contemporaneously provided to the division. This information
 87 shall be confidential and exempt from the provisions of s.
 88 119.07(1) and shall be made available to or reproduced only for
 89 the voter requesting the ballot, a canvassing board, an election
 90 official, a political party or official thereof, a candidate who
 91 has filed qualification papers and is opposed in an upcoming
 92 election, and registered political committees ~~or registered~~
 93 ~~committees of continuous existence~~, for political purposes only.

94 Section 4. Paragraph (a) of subsection (4) of section
 95 102.031, Florida Statutes, is amended to read:

96 102.031 Maintenance of good order at polls; authorities;
 97 persons allowed in polling rooms and early voting areas;
 98 unlawful solicitation of voters.—

99 (4)(a) No person, political committee, ~~committee of~~
 100 ~~continuous existence~~, or other group or organization may solicit
 101 voters inside the polling place or within 100 feet of the
 102 entrance to any polling place, or polling room where the polling
 103 place is also a polling room, or early voting site. Before the
 104 opening of the polling place or early voting site, the clerk or
 105 supervisor shall designate the no-solicitation zone and mark the
 106 boundaries.

107 Section 5. Section 111.075, Florida Statutes, is amended
 108 to read:

109 111.075 Elected officials; prohibition concerning certain
 110 committees.—Elected officials are prohibited from being employed
 111 by, or acting as a consultant for compensation to, a political
 112 committee ~~or committee of continuous existence~~.

113 Section 6. Section 106.011, Florida Statutes, is reordered
 114 and amended to read:

115 106.011 Definitions.—As used in this chapter, the
 116 following terms have the following meanings unless the context
 117 clearly indicates otherwise:

118 (1)~~(11)~~ "Campaign fund raiser" means any affair held to
 119 raise funds to be used in a campaign for public office.

120 (2)~~(9)~~ "Campaign treasurer" means an individual appointed
 121 by a candidate or political committee as provided in this
 122 chapter.

123 (3)~~(16)~~ "Candidate" means any person to whom any one or
 124 more of the following apply:

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

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

129 (c) Any person who receives contributions or makes
 130 expenditures, or consents for any other person to receive
 131 contributions or make expenditures, with a view to bring about
 132 his or her nomination or election to, or retention in, public
 133 office.

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

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

138

139 However, this definition does not include any candidate for a
 140 political party executive committee. Expenditures related to

141 potential candidate polls as provided in s. 106.17 are not
 142 contributions or expenditures for purposes of this subsection.

143 ~~(2) "Committee of continuous existence" means any group,~~
 144 ~~organization, association, or other such entity which is~~
 145 ~~certified pursuant to the provisions of s. 106.04.~~

146 (4)~~(13)~~ "Communications media" means broadcasting
 147 stations, newspapers, magazines, outdoor advertising facilities,
 148 printers, direct mail, advertising agencies, the Internet, and
 149 telephone companies; but with respect to telephones, an
 150 expenditure shall be deemed to be an expenditure for the use of
 151 communications media only if made for the costs of telephones,
 152 paid telephonists, or automatic telephone equipment to be used
 153 by a candidate or a political committee to communicate with
 154 potential voters but excluding any costs of telephones incurred
 155 by a volunteer for use of telephones by such volunteer; however,
 156 with respect to the Internet, an expenditure shall be deemed an
 157 expenditure for use of communications media only if made for the
 158 cost of creating or disseminating a message on a computer
 159 information system accessible by more than one person but
 160 excluding internal communications of a campaign or of any group.

161 (5)~~(3)~~ "Contribution" means:

162 (a) A gift, subscription, conveyance, deposit, loan,
 163 payment, or distribution of money or anything of value,
 164 including contributions in kind having an attributable monetary
 165 value in any form, made for the purpose of influencing the
 166 results of an election or making an electioneering
 167 communication.

168 (b) A transfer of funds between political committees,

169 ~~between committees of continuous existence,~~ between
 170 electioneering communications organizations, or between any
 171 combination of these groups.

172 (c) The payment, by any person other than a candidate or
 173 political committee, of compensation for the personal services
 174 of another person which are rendered to a candidate or political
 175 committee without charge to the candidate or committee for such
 176 services.

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

182
 183 Notwithstanding the foregoing meanings of "contribution," the
 184 term may not be construed to include services, including, but
 185 not limited to, legal and accounting services, provided without
 186 compensation by individuals volunteering a portion or all of
 187 their time on behalf of a candidate or political committee or
 188 editorial endorsements.

189 (6)~~(12)~~ "Division" means the Division of Elections of the
 190 Department of State.

191 (7)~~(6)~~ "Election" means any primary election, special
 192 primary election, general election, special election, or
 193 municipal election held in this state for the purpose of
 194 nominating or electing candidates to public office, choosing
 195 delegates to the national nominating conventions of political
 196 parties, or submitting an issue to the electors for their

197 approval or rejection.

198 (8)~~(18)~~(a) "Electioneering communication" means any
 199 communication that is publicly distributed by a television
 200 station, radio station, cable television system, satellite
 201 system, newspaper, magazine, direct mail, or telephone and that:

202 1. Refers to or depicts a clearly identified candidate for
 203 office without expressly advocating the election or defeat of a
 204 candidate but that is susceptible of no reasonable
 205 interpretation other than an appeal to vote for or against a
 206 specific candidate;

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

210 3. Is targeted to the relevant electorate in the
 211 geographic area the candidate would represent if elected.

212 (b) The term "electioneering communication" does not
 213 include:

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

222 2. A communication in a news story, commentary, or
 223 editorial distributed through the facilities of any radio
 224 station, television station, cable television system, or

225 | satellite system, unless the facilities are owned or controlled
 226 | by any political party, political committee, or candidate. A
 227 | news story distributed through the facilities owned or
 228 | controlled by any political party, political committee, or
 229 | candidate may nevertheless be exempt if it represents a bona
 230 | fide news account communicated through a licensed broadcasting
 231 | facility and the communication is part of a general pattern of
 232 | campaign-related news accounts that give reasonably equal
 233 | coverage to all opposing candidates in the area.

234 | 3. A communication that constitutes a public debate or
 235 | forum that includes at least two opposing candidates for an
 236 | office or one advocate and one opponent of an issue, or that
 237 | solely promotes such a debate or forum and is made by or on
 238 | behalf of the person sponsoring the debate or forum, provided
 239 | that:

240 | a. The staging organization is either:

241 | (I) A charitable organization that does not make other
 242 | electioneering communications and does not otherwise support or
 243 | oppose any political candidate or political party; or

244 | (II) A newspaper, radio station, television station, or
 245 | other recognized news medium; and

246 | b. The staging organization does not structure the debate
 247 | to promote or advance one candidate or issue position over
 248 | another.

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

252 | (d) For purposes of this chapter, an electioneering

253 communication shall not constitute an independent expenditure
 254 nor be subject to the limitations applicable to independent
 255 expenditures.

256 (9)~~(19)~~ "Electioneering communications organization" means
 257 any group, other than a political party, affiliated party
 258 committee, or political committee, ~~or committee of continuous~~
 259 ~~existence~~, whose election-related activities are limited to
 260 making expenditures for electioneering communications or
 261 accepting contributions for the purpose of making electioneering
 262 communications and whose activities would not otherwise require
 263 the group to register as a political party or, political
 264 committee, ~~or committee of continuous existence~~ under this
 265 chapter.

266 (10)~~(4)~~(a) "Expenditure" means a purchase, payment,
 267 distribution, loan, advance, transfer of funds by a campaign
 268 treasurer or deputy campaign treasurer between a primary
 269 depository and a separate interest-bearing account or
 270 certificate of deposit, or gift of money or anything of value
 271 made for the purpose of influencing the results of an election
 272 or making an electioneering communication. However,
 273 "expenditure" does not include a purchase, payment,
 274 distribution, loan, advance, or gift of money or anything of
 275 value made for the purpose of influencing the results of an
 276 election when made by an organization, in existence prior to the
 277 time during which a candidate qualifies or an issue is placed on
 278 the ballot for that election, for the purpose of printing or
 279 distributing such organization's newsletter, containing a
 280 statement by such organization in support of or opposition to a

281 candidate or issue, which newsletter is distributed only to
 282 members of such organization.

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

286 1. A person enters into a contract for applicable goods or
 287 services;

288 2. A person makes payment, in whole or in part, for the
 289 production or public dissemination of applicable goods or
 290 services; or

291 3. The electioneering communication is publicly
 292 disseminated.

293 (11)~~(14)~~ "Filing officer" means the person before whom a
 294 candidate qualifies or~~r~~ the agency or officer with whom a
 295 political committee or an electioneering communications
 296 organization registers, ~~or the agency by whom a committee of~~
 297 ~~continuous existence is certified.~~

298 (12)~~(5)~~(a) "Independent expenditure" means an expenditure
 299 by a person for the purpose of expressly advocating the election
 300 or defeat of a candidate or the approval or rejection of an
 301 issue, which expenditure is not controlled by, coordinated with,
 302 or made upon consultation with, any candidate, political
 303 committee, or agent of such candidate or committee. An
 304 expenditure for such purpose by a person having a contract with
 305 the candidate, political committee, or agent of such candidate
 306 or committee in a given election period shall not be deemed an
 307 independent expenditure.

308 (b) An expenditure for the purpose of expressly advocating

309 the election or defeat of a candidate which is made by the
 310 national, state, or county executive committee of a political
 311 party, including any subordinate committee of the political
 312 party, an affiliated party committee, a political committee, a
 313 ~~committee of continuous existence~~, or any other person shall not
 314 be considered an independent expenditure if the committee or
 315 person:

316 1. Communicates with the candidate, the candidate's
 317 campaign, or an agent of the candidate acting on behalf of the
 318 candidate, including any pollster, media consultant, advertising
 319 agency, vendor, advisor, or staff member, concerning the
 320 preparation of, use of, or payment for, the specific expenditure
 321 or advertising campaign at issue; or

322 2. Makes a payment in cooperation, consultation, or
 323 concert with, at the request or suggestion of, or pursuant to
 324 any general or particular understanding with the candidate, the
 325 candidate's campaign, a political committee supporting the
 326 candidate, or an agent of the candidate relating to the specific
 327 expenditure or advertising campaign at issue; or

328 3. Makes a payment for the dissemination, distribution, or
 329 republication, in whole or in part, of any broadcast or any
 330 written, graphic, or other form of campaign material prepared by
 331 the candidate, the candidate's campaign, or an agent of the
 332 candidate, including any pollster, media consultant, advertising
 333 agency, vendor, advisor, or staff member; or

334 4. Makes a payment based on information about the
 335 candidate's plans, projects, or needs communicated to a member
 336 of the committee or person by the candidate or an agent of the

337 candidate, provided the committee or person uses the information
 338 in any way, in whole or in part, either directly or indirectly,
 339 to design, prepare, or pay for the specific expenditure or
 340 advertising campaign at issue; or

341 5. After the last day of the qualifying period prescribed
 342 for the candidate, consults about the candidate's plans,
 343 projects, or needs in connection with the candidate's pursuit of
 344 election to office and the information is used in any way to
 345 plan, create, design, or prepare an independent expenditure or
 346 advertising campaign, with:

347 a. Any officer, director, employee, or agent of a
 348 national, state, or county executive committee of a political
 349 party or an affiliated party committee that has made or intends
 350 to make expenditures in connection with or contributions to the
 351 candidate; or

352 b. Any person whose professional services have been
 353 retained by a national, state, or county executive committee of
 354 a political party or an affiliated party committee that has made
 355 or intends to make expenditures in connection with or
 356 contributions to the candidate; or

357 6. After the last day of the qualifying period prescribed
 358 for the candidate, retains the professional services of any
 359 person also providing those services to the candidate in
 360 connection with the candidate's pursuit of election to office;
 361 or

362 7. Arranges, coordinates, or directs the expenditure, in
 363 any way, with the candidate or an agent of the candidate.

364 (13)~~(7)~~ "Issue" means any proposition which is required by

365 the State Constitution, by law or resolution of the Legislature,
 366 or by the charter, ordinance, or resolution of any political
 367 subdivision of this state to be submitted to the electors for
 368 their approval or rejection at an election, or any proposition
 369 for which a petition is circulated in order to have such
 370 proposition placed on the ballot at any election.

371 (14)~~(8)~~ "Person" means an individual or a corporation,
 372 association, firm, partnership, joint venture, joint stock
 373 company, club, organization, estate, trust, business trust,
 374 syndicate, or other combination of individuals having collective
 375 capacity. The term includes a political party, affiliated party
 376 committee, or political committee,~~or committee of continuous~~
 377 ~~existence.~~

378 (15)~~(17)~~ "Political advertisement" means a paid expression
 379 in any communications media prescribed in subsection (4) ~~(13)~~,
 380 whether radio, television, newspaper, magazine, periodical,
 381 campaign literature, direct mail, or display or by means other
 382 than the spoken word in direct conversation, which expressly
 383 advocates the election or defeat of a candidate or the approval
 384 or rejection of an issue. However, political advertisement does
 385 not include:

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

392 (b) Editorial endorsements by any newspaper, radio or

393 television station, or other recognized news medium.

394 (16)~~(1)~~(a) "Political committee" means:

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

398 a. Accepts contributions for the purpose of making
399 contributions to any candidate, political committee, ~~committee~~
400 ~~of continuous existence~~, affiliated party committee, or
401 political party;

402 b. Accepts contributions for the purpose of expressly
403 advocating the election or defeat of a candidate or the passage
404 or defeat of an issue;

405 c. Makes expenditures that expressly advocate the election
406 or defeat of a candidate or the passage or defeat of an issue;
407 or

408 d. Makes contributions to a common fund, other than a
409 joint checking account between spouses, from which contributions
410 are made to any candidate, political committee, ~~committee of~~
411 ~~continuous existence~~, affiliated party committee, or political
412 party;

413 2. The sponsor of a proposed constitutional amendment by
414 initiative who intends to seek the signatures of registered
415 electors.

416 (b) Notwithstanding paragraph (a), the following entities
417 are not considered political committees for purposes of this
418 chapter:

419 1. ~~Organizations which are certified by the Department of~~
420 ~~State as committees of continuous existence pursuant to s.~~

421 ~~106.04,~~ National political parties, the state and county
 422 executive committees of political parties, and affiliated party
 423 committees regulated by chapter 103.

424 2. Corporations regulated by chapter 607 or chapter 617 or
 425 other business entities formed for purposes other than to
 426 support or oppose issues or candidates, if their political
 427 activities are limited to contributions to candidates, political
 428 parties, affiliated party committees, or political committees or
 429 expenditures in support of or opposition to an issue from
 430 corporate or business funds and if no contributions are received
 431 by such corporations or business entities.

432 3. Electioneering communications organizations as defined
 433 in subsection (9) ~~(19)~~.

434 (17)~~(10)~~ "Public office" means any state, county,
 435 municipal, or school or other district office or position which
 436 is filled by vote of the electors.

437 (18)~~(15)~~ "Unopposed candidate" means a candidate for
 438 nomination or election to an office who, after the last day on
 439 which any person, including a write-in candidate, may qualify,
 440 is without opposition in the election at which the office is to
 441 be filled or who is without such opposition after such date as a
 442 result of any primary election or of withdrawal by other
 443 candidates seeking the same office. A candidate is not an
 444 unopposed candidate if there is a vacancy to be filled under s.
 445 100.111(3), if there is a legal proceeding pending regarding the
 446 right to a ballot position for the office sought by the
 447 candidate, or if the candidate is seeking retention as a justice
 448 or judge.

449 Section 7. Subsection (1) of section 106.022, Florida
 450 Statutes, is amended to read:

451 106.022 Appointment of a registered agent; duties.—

452 (1) Each political committee, ~~committee of continuous~~
 453 ~~existence,~~ or electioneering communications organization shall
 454 have and continuously maintain in this state a registered office
 455 and a registered agent and must file with the filing officer a
 456 statement of appointment for the registered office and
 457 registered agent. The statement of appointment must:

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

460 (b) Identify the entity for whom the registered agent
 461 serves;

462 (c) Designate the address the registered agent wishes to
 463 use to receive mail;

464 (d) Include the entity's undertaking to inform the filing
 465 officer of any change in such designated address;

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

470 (f) Contain the signature of the registered agent and the
 471 entity engaging the registered agent.

472 Section 8. Paragraph (c) of subsection (1) of section
 473 106.025, Florida Statutes, is amended to read:

474 106.025 Campaign fund raisers.—

475 (1)

476 (c) Any tickets or advertising for ~~such~~ a campaign fund

477 raiser must comply with ~~is exempt from~~ the requirements of s.
 478 106.143.

479 Section 9. Paragraph (b) of subsection (1) of section
 480 106.03, Florida Statutes, is amended to read:

481 106.03 Registration of political committees and
 482 electioneering communications organizations.—

483 (1)

484 (b)1. Each group shall file a statement of organization as
 485 an electioneering communications organization within 24 hours
 486 after the date on which it makes expenditures for an
 487 electioneering communication in excess of \$5,000, if such
 488 expenditures are made within the timeframes specified in s.
 489 106.011(8)(a)2. ~~106.011(18)(a)2.~~ If the group makes
 490 expenditures for an electioneering communication in excess of
 491 \$5,000 before the timeframes specified in s. 106.011(8)(a)2.
 492 ~~106.011(18)(a)2.~~, it shall file the statement of organization
 493 within 24 hours after the 30th day before a primary or special
 494 primary election, or within 24 hours after the 60th day before
 495 any other election, whichever is applicable.

496 2.a. In a statewide, legislative, or multicounty election,
 497 an electioneering communications organization shall file a
 498 statement of organization with the Division of Elections.

499 b. In a countywide election or any election held on less
 500 than a countywide basis, except as described in sub-subparagraph
 501 c., an electioneering communications organization shall file a
 502 statement of organization with the supervisor of elections of
 503 the county in which the election is being held.

504 c. In a municipal election, an electioneering

505 | communications organization shall file a statement of
506 | organization with the officer before whom municipal candidates
507 | qualify.

508 | d. Any electioneering communications organization that
509 | would be required to file a statement of organization in two or
510 | more locations need only file a statement of organization with
511 | the Division of Elections.

512 | Section 10. Section 106.05, Florida Statutes, is amended
513 | to read:

514 | 106.05 Deposit of contributions; statement of campaign
515 | treasurer.—All funds received by the campaign treasurer of any
516 | candidate or political committee shall, prior to the end of the
517 | 5th business day following the receipt thereof, Saturdays,
518 | Sundays, and legal holidays excluded, be deposited in a campaign
519 | depository designated pursuant to s. 106.021, in an account that
520 | contains the designated "... (name of the candidate or
521 | committee.) ... ~~Campaign Account.~~" Except for contributions to
522 | political committees made by payroll deduction, all deposits
523 | shall be accompanied by a bank deposit slip containing the name
524 | of each contributor and the amount contributed by each. If a
525 | contribution is deposited in a secondary campaign depository,
526 | the depository shall forward the full amount of the deposit,
527 | along with a copy of the deposit slip accompanying the deposit,
528 | to the primary campaign depository prior to the end of the 1st
529 | business day following the deposit.

530 | Section 11. Paragraphs (a) and (b) of subsection (1),
531 | subsection (7), and paragraph (b) of subsection (8) of section
532 | 106.07, Florida Statutes, are amended to read:

533 106.07 Reports; certification and filing.—

534 (1) Each campaign treasurer designated by a candidate or
 535 political committee pursuant to s. 106.021 shall file regular
 536 reports of all contributions received, and all expenditures
 537 made, by or on behalf of such candidate or political committee.
 538 Except as provided in paragraphs (a) and (b) ~~Except for the~~
 539 ~~third calendar quarter immediately preceding a general election,~~
 540 reports shall be filed on the 10th day following the end of each
 541 calendar month ~~quarter~~ from the time the campaign treasurer is
 542 appointed, except that, if the 10th day following the end of a
 543 month ~~calendar quarter~~ occurs on a Saturday, Sunday, or legal
 544 holiday, the report shall be filed on the next following day
 545 which is not a Saturday, Sunday, or legal holiday. Monthly
 546 ~~Quarterly~~ reports shall include all contributions received and
 547 expenditures made during the calendar month ~~quarter~~ which have
 548 not otherwise been reported pursuant to this section.

549 (a) For a candidate who is opposed in seeking nomination
 550 or election to an office or for a political committee, the
 551 following reports shall also be filed if the candidate or
 552 political committee is required by law to file reports with the
 553 division:

554 1. On the 60th day immediately preceding the primary
 555 election, and each week thereafter, with the last weekly report
 556 being filed on the 11th day immediately preceding the general
 557 election.

558 2. On the 10th day immediately preceding the general
 559 election, and each day thereafter, with the last daily report
 560 being filed the day before the general election ~~Except as~~

561 ~~provided in paragraph (b), the reports shall also be filed on~~
 562 ~~the 32nd, 18th, and 4th days immediately preceding the primary~~
 563 ~~and on the 46th, 32nd, 18th, and 4th days immediately preceding~~
 564 ~~the election, for a candidate who is opposed in seeking~~
 565 ~~nomination or election to any office, for a political committee,~~
 566 ~~or for a committee of continuous existence.~~

567 (b) For a candidate who is opposed in seeking nomination
 568 or election to an office or for a political committee, reports
 569 shall also be filed on the 60th day immediately preceding the
 570 primary election, and each week thereafter, with the last weekly
 571 report being filed on the 4th day immediately preceding the
 572 general election, if the candidate or political committee is
 573 required by law to file reports with a supervisor of elections
 574 or municipal officer ~~Any statewide candidate who has requested~~
 575 ~~to receive contributions pursuant to the Florida Election~~
 576 ~~Campaign Financing Act or any statewide candidate in a race with~~
 577 ~~a candidate who has requested to receive contributions pursuant~~
 578 ~~to the act shall also file reports on the 4th, 11th, 18th, 25th,~~
 579 ~~and 32nd days prior to the primary election, and on the 4th,~~
 580 ~~11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the~~
 581 ~~general election.~~

582 (7) Notwithstanding any other provisions of this chapter,
 583 in any reporting period during which a candidate or political
 584 committee, ~~or committee of continuous existence~~ has not received
 585 funds, made any contributions, or expended any reportable funds,
 586 the filing of the required report for that period is waived.
 587 However, the next report filed must specify that the report
 588 covers the entire period between the last submitted report and

589 the report being filed, and any candidate or, political
 590 committee, ~~or committee of continuous existence~~ not reporting by
 591 virtue of this subsection on dates prescribed elsewhere in this
 592 chapter shall notify the filing officer in writing on the
 593 prescribed reporting date that no report is being filed on that
 594 date.

595 (8)

596 (b) Upon determining that a report is late, the filing
 597 officer shall immediately notify the candidate or chair of the
 598 political committee as to the failure to file a report by the
 599 designated due date and that a fine is being assessed for each
 600 late day. The fine shall be \$50 per day for the first 3 days
 601 late and, thereafter, \$500 per day for each late day, not to
 602 exceed 25 percent of the total receipts or expenditures,
 603 whichever is greater, for the period covered by the late report.
 604 However, for the reports immediately preceding each special
 605 primary election, special election, primary election, and
 606 general election, the fine shall be \$500 per day for each late
 607 day, not to exceed 25 percent of the total receipts or
 608 expenditures, whichever is greater, for the period covered by
 609 the late report. For reports required under s. 106.141(8)
 610 ~~106.141(7)~~, the fine is \$50 per day for each late day, not to
 611 exceed 25 percent of the total receipts or expenditures,
 612 whichever is greater, for the period covered by the late report.
 613 Upon receipt of the report, the filing officer shall determine
 614 the amount of the fine which is due and shall notify the
 615 candidate or chair or registered agent of the political
 616 committee. The filing officer shall determine the amount of the

- 617 fine due based upon the earliest of the following:
- 618 1. When the report is actually received by such officer.
 - 619 2. When the report is postmarked.
 - 620 3. When the certificate of mailing is dated.
 - 621 4. When the receipt from an established courier company is
 - 622 dated.
 - 623 5. When the electronic receipt issued pursuant to s.
 - 624 106.0705 or other electronic filing system authorized in this
 - 625 section is dated.

626

627 Such fine shall be paid to the filing officer within 20 days

628 after receipt of the notice of payment due, unless appeal is

629 made to the Florida Elections Commission pursuant to paragraph

630 (c). Notice is deemed complete upon proof of delivery of written

631 notice to the mailing or street address on record with the

632 filing officer. In the case of a candidate, such fine shall not

633 be an allowable campaign expenditure and shall be paid only from

634 personal funds of the candidate. An officer or member of a

635 political committee shall not be personally liable for such

636 fine.

637 Section 12. Subsection (1) of section 106.0703, Florida

638 Statutes, is amended to read:

639 106.0703 Electioneering communications organizations;

640 reporting requirements; certification and filing; penalties.—

641 (1)(a) Each electioneering communications organization

642 shall file regular reports of all contributions received and all

643 expenditures made by or on behalf of the organization. Except as

644 provided in paragraphs (b) and (c), reports shall be filed on

645 the 10th day following the end of each calendar month ~~quarter~~
 646 from the time the organization is registered. However, if the
 647 10th day following the end of a calendar month ~~quarter~~ occurs on
 648 a Saturday, Sunday, or legal holiday, the report shall be filed
 649 on the next following day that is not a Saturday, Sunday, or
 650 legal holiday. Monthly ~~Quarterly~~ reports shall include all
 651 contributions received and expenditures made during the calendar
 652 month ~~quarter~~ that have not otherwise been reported pursuant to
 653 this section.

654 (b) For an electioneering communications organization
 655 required by law to file reports with the division, reports shall
 656 also be filed:

657 1. On the 60th day immediately preceding the primary
 658 election, and each week thereafter, with the last weekly report
 659 being filed on the 11th day immediately preceding the general
 660 election.

661 2. On the 10th day immediately preceding the general
 662 election, and every day thereafter, with the last daily report
 663 being filed the day before the general election ~~Following the~~
 664 ~~last day of candidates qualifying for office, the reports shall~~
 665 ~~be filed on the 32nd, 18th, and 4th days immediately preceding~~
 666 ~~the primary election and on the 46th, 32nd, 18th, and 4th days~~
 667 ~~immediately preceding the general election.~~

668 (c) For an electioneering communications organization
 669 required by law to file reports with a supervisor of elections
 670 or municipal officer, reports shall also be filed on the 60th
 671 day immediately preceding the primary election, and each week
 672 thereafter, with the last weekly report being filed on the 4th

673 day immediately preceding the general election.

674 (d) When a special election is called to fill a vacancy in
 675 office, all electioneering communications organizations making
 676 contributions or expenditures to influence the results of the
 677 special election shall file reports with the filing officer on
 678 the dates set by the Department of State pursuant to s. 100.111.

679 (e)~~(d)~~ In addition to the reports required by paragraph
 680 (a), an electioneering communications organization that is
 681 registered with the Department of State and that makes a
 682 contribution or expenditure to influence the results of a county
 683 or municipal election that is not being held at the same time as
 684 a state or federal election must file reports with the county or
 685 municipal filing officer on the same dates as county or
 686 municipal candidates or committees for that election. The
 687 electioneering communications organization must also include the
 688 expenditure in the next report filed with the Division of
 689 Elections pursuant to this section following the county or
 690 municipal election.

691 (f)~~(e)~~ The filing officer shall make available to each
 692 electioneering communications organization a schedule
 693 designating the beginning and end of reporting periods as well
 694 as the corresponding designated due dates.

695 Section 13. Paragraph (b) of subsection (2) and
 696 subsections (3) and (4) of section 106.0705, Florida Statutes,
 697 are amended to read:

698 106.0705 Electronic filing of campaign treasurer's
 699 reports.-

700 (2) (b) Each political committee, ~~committee of continuous~~

701 ~~existence,~~ electioneering communications organization,
 702 affiliated party committee, or state executive committee that is
 703 required to file reports with the division under ~~s. 106.04,~~ s.
 704 . 106.07, s. 106.0703, or s. 106.29, as applicable, must file such
 705 reports with the division by means of the division's electronic
 706 filing system.

707 (3) Reports filed pursuant to this section shall be
 708 completed and filed through the electronic filing system not
 709 later than midnight of the day designated. Reports not filed by
 710 midnight of the day designated are late filed and are subject to
 711 the penalties under ~~s. 106.04(9),~~ s. 106.07(8), s. 106.0703(7),
 712 or s. 106.29(3), as applicable.

713 (4) Each report filed pursuant to this section is
 714 considered to be under oath by the candidate and treasurer, the
 715 chair and treasurer, the treasurer under s. 106.0703, or the
 716 leader and treasurer under s. 103.092, whichever is applicable,
 717 and such persons are subject to the provisions of ~~s.~~
 718 ~~106.04(4)(d),~~ s. 106.07(5), s. 106.0703(4), or s. 106.29(2), as
 719 applicable. Persons given a secure sign-on to the electronic
 720 filing system are responsible for protecting such from
 721 disclosure and are responsible for all filings using such
 722 credentials, unless they have notified the division that their
 723 credentials have been compromised.

724 Section 14. Effective July 1, 2013, paragraph (a) of
 725 subsection (1) of section 106.08, Florida Statutes, is amended
 726 to read:

727 106.08 Contributions; limitations on.—

728 (1)(a) Except for political parties or affiliated party

729 | committees, no person or, political committee, ~~or committee of~~
 730 | ~~continuous existence~~ may, in any election, make contributions in
 731 | excess of \$10,000 ~~\$500~~ to any candidate for election to or
 732 | retention in office ~~or to any political committee supporting or~~
 733 | ~~opposing one or more candidates~~. Candidates for the offices of
 734 | Governor and Lieutenant Governor on the same ticket are
 735 | considered a single candidate for the purpose of this section.

736 | Section 15. Paragraph (c) of subsection (1) and
 737 | subsections (7) and (10) of section 106.08, Florida Statutes,
 738 | are amended to read:

739 | 106.08 Contributions; limitations on.-

740 | (1)

741 | (c) The contribution limits of this subsection apply to
 742 | each election. For purposes of this subsection, the primary
 743 | election and general election are separate elections so long as
 744 | the candidate is not an unopposed candidate as defined in s.
 745 | 106.011 ~~106.011(15)~~. However, for the purpose of contribution
 746 | limits with respect to candidates for retention as a justice or
 747 | judge, there is only one election, which is the general
 748 | election.

749 | (7)(a) Any person who knowingly and willfully makes or
 750 | accepts no more than one contribution in violation of subsection
 751 | (1) or subsection (5), or any person who knowingly and willfully
 752 | fails or refuses to return any contribution as required in
 753 | subsection (3), commits a misdemeanor of the first degree,
 754 | punishable as provided in s. 775.082 or s. 775.083. If any
 755 | corporation, partnership, or other business entity or any
 756 | political party, affiliated party committee, political

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

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

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

797 (10) Contributions to a political committee ~~or committee~~
 798 ~~of continuous existence~~ may be received by an affiliated
 799 organization and transferred to the bank account of the
 800 political committee ~~or committee of continuous existence~~ via
 801 check written from the affiliated organization if such
 802 contributions are specifically identified as intended to be
 803 contributed to the political committee ~~or committee of~~
 804 ~~continuous existence~~. All contributions received in this manner
 805 shall be reported pursuant to s. 106.07 by the political
 806 committee ~~or committee of continuous existence~~ as having been
 807 made by the original contributor.

808 Section 16. Subsection (2) of section 106.087, Florida
 809 Statutes, is amended to read:

810 106.087 Independent expenditures; contribution limits;
 811 restrictions on political parties and, political committees, ~~and~~
 812 ~~committees of continuous existence.~~

813 (2) (a) Any political committee ~~or committee of continuous~~
 814 ~~existence~~ that accepts the use of public funds, equipment,
 815 personnel, or other resources to collect dues from its members
 816 agrees not to make independent expenditures in support of or
 817 opposition to a candidate or elected public official. However,
 818 expenditures may be made for the sole purpose of jointly
 819 endorsing three or more candidates.

820 (b) Any political committee ~~or committee of continuous~~
 821 ~~existence~~ that violates this subsection is liable for a civil
 822 fine of up to \$5,000 to be determined by the Florida Elections
 823 Commission or the entire amount of the expenditures, whichever
 824 is greater.

825 Section 17. Paragraph (b) of subsection (1) and paragraph
 826 (a) of subsection (2) of section 106.11, Florida Statutes, are
 827 amended to read:

828 106.11 Expenses of and expenditures by candidates and
 829 political committees.—Each candidate and each political
 830 committee which designates a primary campaign depository
 831 pursuant to s. 106.021(1) shall make expenditures from funds on
 832 deposit in such primary campaign depository only in the
 833 following manner, with the exception of expenditures made from
 834 petty cash funds provided by s. 106.12:

835 (1)

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

838 1. The ~~statement "... (name of the campaign account of the~~
 839 ~~candidate or political committee.) ... Campaign Account."~~

840 2. The account number and the name of the bank.

- 841 3. The exact amount of the expenditure.
- 842 4. The signature of the campaign treasurer or deputy
843 treasurer.
- 844 5. The exact purpose for which the expenditure is
845 authorized.
- 846 6. The name of the payee.
- 847 (2) (a) For purposes of this section, debit cards are
848 considered bank checks, if:
- 849 1. Debit cards are obtained from the same bank that has
850 been designated as the candidate's or political committee's
851 primary campaign depository.
- 852 2. Debit cards are issued in the name of the treasurer,
853 deputy treasurer, or authorized user and contain the state
854 "... (name of the campaign account of the candidate or political
855 committee.) ... Campaign Account."
- 856 3. No more than three debit cards are requested and
857 issued.
- 858 4. The person using the debit card does not receive cash
859 as part of, or independent of, any transaction for goods or
860 services.
- 861 5. All receipts for debit card transactions contain:
- 862 a. The last four digits of the debit card number.
- 863 b. The exact amount of the expenditure.
- 864 c. The name of the payee.
- 865 d. The signature of the campaign treasurer, deputy
866 treasurer, or authorized user.
- 867 e. The exact purpose for which the expenditure is
868 authorized.

869 Any information required by this subparagraph but not included
 870 on the debit card transaction receipt may be handwritten on, or
 871 attached to, the receipt by the authorized user before
 872 submission to the treasurer.

873 Section 18. Subsection (3) of section 106.12, Florida
 874 Statutes, is amended to read:

875 106.12 Petty cash funds allowed.—

876 (3) The petty cash fund so provided shall be spent only in
 877 amounts less than \$100 and only for office supplies,
 878 transportation expenses, and other necessities. Petty cash shall
 879 not be used for the purchase of time, space, or services from
 880 communications media as defined in s. 106.011 ~~106.011(13)~~.

881 Section 19. Section 106.141, Florida Statutes, is amended
 882 to read:

883 106.141 Disposition of surplus funds by candidates.—

884 (1) Except as provided in subsection (6), each candidate
 885 who withdraws his or her candidacy, becomes an unopposed
 886 candidate, or is eliminated as a candidate or elected to office
 887 shall, within 90 days, dispose of the funds on deposit in his or
 888 her campaign account and file a report reflecting the
 889 disposition of all remaining funds. Such candidate shall not
 890 accept any contributions, nor shall any person accept
 891 contributions on behalf of such candidate, after the candidate
 892 withdraws his or her candidacy, becomes unopposed, or is
 893 eliminated or elected. However, if a candidate receives a refund
 894 check after all surplus funds have been disposed of, the check
 895 may be endorsed by the candidate and the refund disposed of
 896 under this section. An amended report must be filed showing the

897 refund and subsequent disposition.

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

902 (3) The campaign treasurer of a candidate who withdraws
 903 his or her candidacy, becomes unopposed, or is eliminated as a
 904 candidate or elected to office and who has funds on deposit in a
 905 separate interest-bearing account or certificate of deposit
 906 shall, within 7 days after the date of becoming unopposed or the
 907 date of such withdrawal, elimination, or election, transfer such
 908 funds and the accumulated interest earned thereon to the
 909 campaign account of the candidate for disposal under this
 910 section. However, if the funds are in an account in which
 911 penalties will apply for withdrawal within the 7-day period, the
 912 campaign treasurer shall transfer such funds and the accumulated
 913 interest earned thereon as soon as the funds can be withdrawn
 914 without penalty, or within 90 days after the candidate becomes
 915 unopposed, withdraws his or her candidacy, or is eliminated or
 916 elected, whichever comes first.

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

921 1. Return pro rata to each contributor the funds that have
 922 not been spent or obligated.

923 2. Donate the funds that have not been spent or obligated
 924 to a charitable organization or organizations that meet the

925 | qualifications of s. 501(c)(3) of the Internal Revenue Code.

926 | 3. Give the funds that have not been spent or obligated to
 927 | the affiliated party committee or political party of which such
 928 | candidate is a member.

929 | 4. Give the funds that have not been spent or obligated:

930 | a. In the case of a candidate for state office, to the
 931 | state, to be deposited in either the Election Campaign Financing
 932 | Trust Fund or the General Revenue Fund, as designated by the
 933 | candidate; or

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

937 | (b) Any candidate required to dispose of funds pursuant to
 938 | this section who has received contributions pursuant to the
 939 | Florida Election Campaign Financing Act shall, after all
 940 | monetary commitments pursuant to s. 106.11(5)(b) and (c) have
 941 | been met, return all surplus campaign funds to the General
 942 | Revenue Fund.

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

949 | (a) Twenty thousand dollars, for a candidate for statewide
 950 | office. The Governor and Lieutenant Governor shall be considered
 951 | separate candidates for the purpose of this section.

952 | (b) Five thousand dollars, for a candidate for multicounty

953 office.

954 (c) Five thousand dollars multiplied by the number of
 955 years in the term of office for which elected, for a candidate
 956 for legislative office.

957 (d) Two thousand five hundred dollars multiplied by the
 958 number of years in the term of office for which elected, for a
 959 candidate for county office or for a candidate in any election
 960 conducted on less than a countywide basis.

961 (e) Six thousand dollars, for a candidate for retention as
 962 a justice of the Supreme Court.

963 (f) Three thousand dollars, for a candidate for retention
 964 as a judge of a district court of appeal.

965 (g) One thousand five hundred dollars, for a candidate for
 966 county court judge or circuit judge.

967

968 The office account established pursuant to this subsection shall
 969 be separate from any personal or other account. Any funds so
 970 transferred by a candidate shall be used only for legitimate
 971 expenses in connection with the candidate's public office. Such
 972 expenses may include travel expenses incurred by the officer or
 973 a staff member, personal taxes payable on office account funds
 974 by the candidate or elected public official, or expenses
 975 incurred in the operation of his or her office, including the
 976 employment of additional staff. The funds may be deposited in a
 977 savings account; however, all deposits, withdrawals, and
 978 interest earned thereon shall be reported at the appropriate
 979 reporting period. If a candidate is reelected to office or
 980 elected to another office and has funds remaining in his or her

981 office account, he or she may transfer surplus campaign funds to
 982 the office account. At no time may the funds in the office
 983 account exceed the limitation imposed by this subsection. Upon
 984 leaving public office, any person who has funds in an office
 985 account pursuant to this subsection remaining on deposit shall
 986 give such funds to a charitable organization or organizations
 987 which meet the requirements of s. 501(c)(3) of the Internal
 988 Revenue Code or, in the case of a state officer, to the state to
 989 be deposited in the General Revenue Fund or, in the case of an
 990 officer of a political subdivision, to the political subdivision
 991 to be deposited in the general fund thereof.

992 (6) (a) A candidate elected to state office or a candidate
 993 who will be elected to state office by virtue of his or her
 994 being unopposed may, in addition to the disposition methods
 995 provided in subsections (4) and (5), retain up to \$100,000 in
 996 his or her campaign account, or in an interest-bearing account
 997 or certificate of deposit, for use in his or her next campaign
 998 for the same office. All requirements applicable to candidate
 999 campaign accounts under this chapter, including disclosure
 1000 requirements applicable to candidate campaign accounts,
 1001 limitations on expenditures, and limitations on contributions,
 1002 shall apply to any retained funds.

1003 (b) If a candidate who retained funds under this
 1004 subsection does not qualify as a candidate for the same office
 1005 when the office is next on the ballot, all retained funds shall
 1006 be disposed of as otherwise required by this section within 90
 1007 days after the last day of qualifying for that office.
 1008 Requirements in this section applicable to the disposal of

1009 surplus funds, including reporting requirements, are applicable
 1010 to the disposal of retained funds.

1011 (7)~~(6)~~ Prior to disposing of funds pursuant to subsection
 1012 (4) or transferring funds into an office account pursuant to
 1013 subsection (5), any candidate who filed an oath stating that he
 1014 or she was unable to pay the election assessment or fee for
 1015 verification of petition signatures without imposing an undue
 1016 burden on his or her personal resources or on resources
 1017 otherwise available to him or her, or who filed both such oaths,
 1018 or who qualified by the petition process and was not required to
 1019 pay an election assessment, shall reimburse the state or local
 1020 governmental entity, whichever is applicable, for such waived
 1021 assessment or fee or both. Such reimbursement shall be made
 1022 first for the cost of petition verification and then, if funds
 1023 are remaining, for the amount of the election assessment. If
 1024 there are insufficient funds in the account to pay the full
 1025 amount of either the assessment or the fee or both, the
 1026 remaining funds shall be disbursed in the above manner until no
 1027 funds remain. All funds disbursed pursuant to this subsection
 1028 shall be remitted to the qualifying officer. Any reimbursement
 1029 for petition verification costs which are reimbursable by the
 1030 state shall be forwarded by the qualifying officer to the state
 1031 for deposit in the General Revenue Fund. All reimbursements for
 1032 the amount of the election assessment shall be forwarded by the
 1033 qualifying officer to the Department of State for deposit in the
 1034 General Revenue Fund.

1035 (8)~~(7)~~(a) Any candidate required to dispose of campaign
 1036 funds pursuant to this section shall do so within the time

1037 required by this section and shall, on or before the date by
 1038 which such disposition is to have been made, file with the
 1039 officer with whom reports are required to be filed pursuant to
 1040 s. 106.07 a form prescribed by the Division of Elections
 1041 listing:

1042 1. The name and address of each person or unit of
 1043 government to whom any of the funds were distributed and the
 1044 amounts thereof;

1045 2. The name and address of each person to whom an
 1046 expenditure was made, together with the amount thereof and
 1047 purpose therefor; ~~and~~

1048 3. The amount of such funds transferred to an office
 1049 account by the candidate, together with the name and address of
 1050 the bank in which the office account is located; and

1051 4. The amount of such funds retained pursuant to
 1052 subsection (6).

1053
 1054 Such report shall be signed by the candidate and the campaign
 1055 treasurer and certified as true and correct pursuant to s.
 1056 106.07.

1057 (b) The filing officer shall notify each candidate at
 1058 least 14 days before the date the report is due.

1059 (c) Any candidate failing to file a report on the
 1060 designated due date shall be subject to a fine as provided in s.
 1061 106.07 for submitting late termination reports.

1062 (9) ~~(8)~~ Any candidate elected to office who transfers
 1063 surplus campaign funds into an office account pursuant to
 1064 subsection (5) shall file a report on the 10th day following the

1065 end of each calendar quarter until the account is closed. Such
 1066 reports shall contain the name and address of each person to
 1067 whom any disbursement of funds was made, together with the
 1068 amount thereof and the purpose therefor, and the name and
 1069 address of any person from whom the elected candidate received
 1070 any refund or reimbursement and the amount thereof. Such reports
 1071 shall be on forms prescribed by the Division of Elections,
 1072 signed by the elected candidate, certified as true and correct,
 1073 and filed with the officer with whom campaign reports were filed
 1074 pursuant to s. 106.07(2).

1075 (10)~~(9)~~ Any candidate, or any person on behalf of a
 1076 candidate, who accepts contributions after such candidate has
 1077 withdrawn his or her candidacy, after the candidate has become
 1078 an unopposed candidate, or after the candidate has been
 1079 eliminated as a candidate or elected to office commits a
 1080 misdemeanor of the first degree, punishable as provided in s.
 1081 775.082 or s. 775.083.

1082 (11)~~(10)~~ Any candidate who is required by the provisions
 1083 of this section to dispose of funds in his or her campaign
 1084 account and who fails to dispose of the funds in the manner
 1085 provided in this section commits a misdemeanor of the first
 1086 degree, punishable as provided in s. 775.082 or s. 775.083.

1087 Section 20. Paragraph (b) of subsection (3) of section
 1088 106.147, Florida Statutes, is amended to read:

1089 106.147 Telephone solicitation; disclosure requirements;
 1090 prohibitions; exemptions; penalties.-

1091 (3) (b) For purposes of paragraph (a), the term "person"
 1092 includes any candidate; any officer of any political committee,

1093 ~~committee of continuous existence,~~ affiliated party committee,
 1094 or political party executive committee; any officer, partner,
 1095 attorney, or other representative of a corporation, partnership,
 1096 or other business entity; and any agent or other person acting
 1097 on behalf of any candidate, political committee, ~~committee of~~
 1098 ~~continuous existence,~~ affiliated party committee, political
 1099 party executive committee, or corporation, partnership, or other
 1100 business entity.

1101 Section 21. Section 106.17, Florida Statutes, is amended
 1102 to read:

1103 106.17 Polls and surveys relating to candidacies.—Any
 1104 candidate, political committee, ~~committee of continuous~~
 1105 ~~existence,~~ electioneering communication organization, affiliated
 1106 party committee, or state or county executive committee of a
 1107 political party may authorize or conduct a political poll,
 1108 survey, index, or measurement of any kind relating to candidacy
 1109 for public office so long as the candidate, political committee,
 1110 ~~committee of continuous existence,~~ electioneering communication
 1111 organization, affiliated party committee, or political party
 1112 maintains complete jurisdiction over the poll in all its
 1113 aspects. State and county executive committees of a political
 1114 party or an affiliated party committee may authorize and conduct
 1115 political polls for the purpose of determining the viability of
 1116 potential candidates. Such poll results may be shared with
 1117 potential candidates, and expenditures incurred by state and
 1118 county executive committees or an affiliated party committee for
 1119 potential candidate polls are not contributions to the potential
 1120 candidates.

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1121 Section 22. Subsection (2) of section 106.23, Florida
 1122 Statutes, is amended to read:

1123 106.23 Powers of the Division of Elections.—

1124 (2) The Division of Elections shall provide advisory
 1125 opinions when requested by any supervisor of elections,
 1126 candidate, local officer having election-related duties,
 1127 political party, affiliated party committee, political
 1128 committee, ~~committee of continuous existence~~, or other person or
 1129 organization engaged in political activity, relating to any
 1130 provisions or possible violations of Florida election laws with
 1131 respect to actions such supervisor, candidate, local officer
 1132 having election-related duties, political party, affiliated
 1133 party committee, committee, person, or organization has taken or
 1134 proposes to take. Requests for advisory opinions must be
 1135 submitted in accordance with rules adopted by the Department of
 1136 State. A written record of all such opinions issued by the
 1137 division, sequentially numbered, dated, and indexed by subject
 1138 matter, shall be retained. A copy shall be sent to said person
 1139 or organization upon request. Any such person or organization,
 1140 acting in good faith upon such an advisory opinion, shall not be
 1141 subject to any criminal penalty provided for in this chapter.
 1142 The opinion, until amended or revoked, shall be binding on any
 1143 person or organization who sought the opinion or with reference
 1144 to whom the opinion was sought, unless material facts were
 1145 omitted or misstated in the request for the advisory opinion.

1146 Section 23. Subsections (2) and (3) of section 106.265,
 1147 Florida Statutes, are amended to read:

1148 106.265 Civil penalties.—

1149 (2) In determining the amount of such civil penalties, the
 1150 commission or administrative law judge shall consider, among
 1151 other mitigating and aggravating circumstances:

1152 (a) The gravity of the act or omission;

1153 (b) Any previous history of similar acts or omissions;

1154 (c) The appropriateness of such penalty to the financial
 1155 resources of the person, political committee, ~~committee of~~
 1156 ~~continuous existence~~, affiliated party committee, electioneering
 1157 communications organization, or political party; and

1158 (d) Whether the person, political committee, ~~committee of~~
 1159 ~~continuous existence~~, affiliated party committee, electioneering
 1160 communications organization, or political party has shown good
 1161 faith in attempting to comply with the provisions of this
 1162 chapter or chapter 104.

1163 (3) If any person, political committee, ~~committee of~~
 1164 ~~continuous existence~~, affiliated party committee, electioneering
 1165 communications organization, or political party fails or refuses
 1166 to pay to the commission any civil penalties assessed pursuant
 1167 to the provisions of this section, the commission shall be
 1168 responsible for collecting the civil penalties resulting from
 1169 such action.

1170 Section 24. Subsection (2) of section 106.27, Florida
 1171 Statutes, is amended to read:

1172 106.27 Determinations by commission; legal disposition.—

1173 (2) Civil actions may be brought by the commission for
 1174 relief, including permanent or temporary injunctions,
 1175 restraining orders, or any other appropriate order for the
 1176 imposition of civil penalties provided by this chapter. Such

1177 civil actions shall be brought by the commission in the
 1178 appropriate court of competent jurisdiction, and the venue shall
 1179 be in the county in which the alleged violation occurred or in
 1180 which the alleged violator or violators are found, reside, or
 1181 transact business. Upon a proper showing that such person,
 1182 political committee, ~~committee of continuous existence,~~
 1183 affiliated party committee, or political party has engaged, or
 1184 is about to engage, in prohibited acts or practices, a permanent
 1185 or temporary injunction, restraining order, or other order shall
 1186 be granted without bond by such court, and the civil fines
 1187 provided by this chapter may be imposed.

1188 Section 25. Subsection (3) of section 106.32, Florida
 1189 Statutes, is amended to read:

1190 106.32 Election Campaign Financing Trust Fund.—

1191 (3) Proceeds from assessments pursuant to ss. ~~106.04,~~
 1192 106.07~~7~~ and 106.29 shall be deposited into the Election Campaign
 1193 Financing Trust Fund as designated in those sections.

1194 Section 26. Section 106.33, Florida Statutes, is amended
 1195 to read:

1196 106.33 Election campaign financing; eligibility.—Each
 1197 candidate for the office of Governor or member of the Cabinet
 1198 who desires to receive contributions from the Election Campaign
 1199 Financing Trust Fund shall, upon qualifying for office, file a
 1200 request for such contributions with the filing officer on forms
 1201 provided by the Division of Elections. If a candidate requesting
 1202 contributions from the fund desires to have such funds
 1203 distributed by electronic fund transfers, the request shall
 1204 include information necessary to implement that procedure. For

1205 the purposes of ss. 106.30-106.36, candidates for Governor and
 1206 Lieutenant Governor on the same ticket shall be considered as a
 1207 single candidate. To be eligible to receive contributions from
 1208 the fund, a candidate may not be an unopposed candidate as
 1209 defined in s. 106.011 ~~106.011(15)~~ and must:

1210 (1) Agree to abide by the expenditure limits provided in
 1211 s. 106.34.

1212 (2)(a) Raise contributions as follows:

1213 1. One hundred fifty thousand dollars for a candidate for
 1214 Governor.

1215 2. One hundred thousand dollars for a candidate for
 1216 Cabinet office.

1217 (b) Contributions from individuals who at the time of
 1218 contributing are not state residents may not be used to meet the
 1219 threshold amounts in paragraph (a). For purposes of this
 1220 paragraph, any person validly registered to vote in this state
 1221 shall be considered a state resident.

1222 (3) Limit loans or contributions from the candidate's
 1223 personal funds to \$25,000 and contributions from national,
 1224 state, and county executive committees of a political party to
 1225 \$250,000 in the aggregate, which loans or contributions shall
 1226 not qualify for meeting the threshold amounts in subsection (2).

1227 (4) Submit to a postelection audit of the campaign account
 1228 by the division.

1229 Section 27. Subsections (3) and (4) and paragraph (a) of
 1230 subsection (5) of section 112.3148, Florida Statutes, are
 1231 amended to read:

1232 112.3148 Reporting and prohibited receipt of gifts by

1233 individuals filing full or limited public disclosure of
 1234 financial interests and by procurement employees.-

1235 (3) A reporting individual or procurement employee is
 1236 prohibited from soliciting any gift from a political committee
 1237 ~~or committee of continuous existence~~, as defined in s. 106.011,
 1238 or from a lobbyist who lobbies the reporting individual's or
 1239 procurement employee's agency, or the partner, firm, employer,
 1240 or principal of such lobbyist, where such gift is for the
 1241 personal benefit of the reporting individual or procurement
 1242 employee, another reporting individual or procurement employee,
 1243 or any member of the immediate family of a reporting individual
 1244 or procurement employee.

1245 (4) A reporting individual or procurement employee or any
 1246 other person on his or her behalf is prohibited from knowingly
 1247 accepting, directly or indirectly, a gift from a political
 1248 committee ~~or committee of continuous existence~~, as defined in s.
 1249 106.011, or from a lobbyist who lobbies the reporting
 1250 individual's or procurement employee's agency, or directly or
 1251 indirectly on behalf of the partner, firm, employer, or
 1252 principal of a lobbyist, if he or she knows or reasonably
 1253 believes that the gift has a value in excess of \$100; however,
 1254 such a gift may be accepted by such person on behalf of a
 1255 governmental entity or a charitable organization. If the gift is
 1256 accepted on behalf of a governmental entity or charitable
 1257 organization, the person receiving the gift shall not maintain
 1258 custody of the gift for any period of time beyond that
 1259 reasonably necessary to arrange for the transfer of custody and
 1260 ownership of the gift.

1261 (5) (a) A political committee ~~or a committee of continuous~~
 1262 ~~existence~~, as defined in s. 106.011; a lobbyist who lobbies a
 1263 reporting individual's or procurement employee's agency; the
 1264 partner, firm, employer, or principal of a lobbyist; or another
 1265 on behalf of the lobbyist or partner, firm, principal, or
 1266 employer of the lobbyist is prohibited from giving, either
 1267 directly or indirectly, a gift that has a value in excess of
 1268 \$100 to the reporting individual or procurement employee or any
 1269 other person on his or her behalf; however, such person may give
 1270 a gift having a value in excess of \$100 to a reporting
 1271 individual or procurement employee if the gift is intended to be
 1272 transferred to a governmental entity or a charitable
 1273 organization.

1274 Section 28. Subsections (3) and (4) of section 112.3149,
 1275 Florida Statutes, are amended to read:

1276 112.3149 Solicitation and disclosure of honoraria.—

1277 (3) A reporting individual or procurement employee is
 1278 prohibited from knowingly accepting an honorarium from a
 1279 political committee ~~or committee of continuous existence~~, as
 1280 defined in s. 106.011, from a lobbyist who lobbies the reporting
 1281 individual's or procurement employee's agency, or from the
 1282 employer, principal, partner, or firm of such a lobbyist.

1283 (4) A political committee ~~or committee of continuous~~
 1284 ~~existence~~, as defined in s. 106.011, a lobbyist who lobbies a
 1285 reporting individual's or procurement employee's agency, or the
 1286 employer, principal, partner, or firm of such a lobbyist is
 1287 prohibited from giving an honorarium to a reporting individual
 1288 or procurement employee.

1289 Section 29. Subsection (4) of section 1004.28, Florida
 1290 Statutes, is amended to read:

1291 1004.28 Direct-support organizations; use of property;
 1292 board of directors; activities; audit; facilities.—

1293 (4) ACTIVITIES; RESTRICTION.—A university direct-support
 1294 organization is prohibited from giving, either directly or
 1295 indirectly, any gift to a political committee ~~or committee of~~
 1296 ~~continuous existence~~ as defined in s. 106.011 for any purpose
 1297 other than those certified by a majority roll call vote of the
 1298 governing board of the direct-support organization at a
 1299 regularly scheduled meeting as being directly related to the
 1300 educational mission of the university.

1301 Section 30. Paragraph (d) of subsection (4) of section
 1302 1004.70, Florida Statutes, is amended to read:

1303 1004.70 Florida College System institution direct-support
 1304 organizations.—

1305 (4) ACTIVITIES; RESTRICTIONS.—

1306 (d) A Florida College System institution direct-support
 1307 organization is prohibited from giving, either directly or
 1308 indirectly, any gift to a political committee ~~or committee of~~
 1309 ~~continuous existence~~ as defined in s. 106.011 for any purpose
 1310 other than those certified by a majority roll call vote of the
 1311 governing board of the direct-support organization at a
 1312 regularly scheduled meeting as being directly related to the
 1313 educational mission of the Florida College System institution.

1314 Section 31. Paragraph (c) of subsection (4) of section
 1315 1004.71, Florida Statutes, is amended to read:

1316 1004.71 Statewide Florida College System institution

1317 direct-support organizations.-

1318 (4) RESTRICTIONS.-

1319 (c) A statewide Florida College System institution direct-
 1320 support organization is prohibited from giving, either directly
 1321 or indirectly, any gift to a political committee ~~or committee of~~
 1322 ~~continuous existence~~ as defined in s. 106.011 for any purpose
 1323 other than those certified by a majority roll call vote of the
 1324 governing board of the direct-support organization at a
 1325 regularly scheduled meeting as being directly related to the
 1326 educational mission of the State Board of Education.

1327 Section 32. By December 1, 2013, the Division of Elections
 1328 of the Department of State shall submit a proposal to the
 1329 President of the Senate and the Speaker of the House of
 1330 Representatives for a mandatory statewide electronic filing
 1331 system for all state and local campaign finance reports required
 1332 by s. 106.07, Florida Statutes, s. 106.0703, Florida Statutes,
 1333 or s. 106.29, Florida Statutes.

1334 Section 33. (1) For Fiscal Year 2013-2014, one full-time
 1335 equivalent position, with associated salary rate of 33,000, is
 1336 authorized and \$42,900 in recurring funds from the Elections
 1337 Commission Trust Fund within the Department of Legal Affairs is
 1338 appropriated to the Florida Elections Commission to carry out
 1339 the provisions of this act.

1340 (2) For Fiscal Year 2013-2014, two full-time equivalent
 1341 positions, with associated salary rate of 57,297, are authorized
 1342 and \$85,000 in recurring funds from the General Revenue Fund is
 1343 appropriated to the Division of Elections of the Department of
 1344 State to carry out the provisions of this act.

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1345 (3) This section shall take effect July 1, 2013.
1346 Section 34. Except as otherwise expressly provided in this
1347 act and except for this section, which shall take effect upon
1348 this act becoming a law, this act shall take effect November 1,
1349 2013.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Schenck offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 106.04, Florida Statutes, is repealed.

7 Section 2. (1) Effective August 1, 2013, a committee of
 8 continuous existence may not accept a contribution as defined in
 9 s. 106.011, Florida Statutes. By July 15, 2013, the Division of
 10 Elections of the Department of State shall notify each committee
 11 of continuous existence of the prohibition on accepting such a
 12 contribution as provided in this subsection.

13 (2) Effective September 30, 2013, the certification of
 14 each committee of continuous existence is revoked. By July 15,
 15 2013, the Division of Elections of the Department of State shall
 16 notify each committee of continuous existence of the revocation
 17 of its certification pursuant to this subsection. Following such
 18 revocation of certification, each committee of continuous
 19 existence shall file any outstanding report as required by law.



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20 (3) This section shall take effect upon this act becoming
21 a law.

22 Section 3. Subsection (3) of section 101.62, Florida
23 Statutes, is amended to read:

24 101.62 Request for absentee ballots.-

25 (3) For each request for an absentee ballot received, the
26 supervisor shall record the date the request was made, the date
27 the absentee ballot was delivered to the voter or the voter's
28 designee or the date the absentee ballot was delivered to the
29 post office or other carrier, the date the ballot was received
30 by the supervisor, and such other information he or she may deem
31 necessary. This information shall be provided in electronic
32 format as provided by rule adopted by the division. The
33 information shall be updated and made available no later than 8
34 a.m. of each day, including weekends, beginning 60 days before
35 the primary until 15 days after the general election and shall
36 be contemporaneously provided to the division. This information
37 shall be confidential and exempt from the provisions of s.
38 119.07(1) and shall be made available to or reproduced only for
39 the voter requesting the ballot, a canvassing board, an election
40 official, a political party or official thereof, a candidate who
41 has filed qualification papers and is opposed in an upcoming
42 election, and registered political committees ~~or registered~~
43 ~~committees of continuous existence~~, for political purposes only.

44 Section 4. Paragraph (a) of subsection (4) of section
45 102.031, Florida Statutes, is amended to read:



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46 102.031 Maintenance of good order at polls; authorities;
47 persons allowed in polling rooms and early voting areas;
48 unlawful solicitation of voters.-

49 (4) (a) No person, political committee, ~~committee of~~
50 ~~continuous existence~~, or other group or organization may solicit
51 voters inside the polling place or within 100 feet of the
52 entrance to any polling place, or polling room where the polling
53 place is also a polling room, or early voting site. Before the
54 opening of the polling place or early voting site, the clerk or
55 supervisor shall designate the no-solicitation zone and mark the
56 boundaries.

57 Section 5. Section 111.075, Florida Statutes, is amended
58 to read:

59 111.075 Elected officials; prohibition concerning certain
60 committees.-Elected officials are prohibited from being employed
61 by, or acting as a consultant for compensation to, a political
62 committee ~~or committee of continuous existence~~.

63 Section 6. Section 106.011, Florida Statutes, is reordered
64 and amended to read:

65 106.011 Definitions.-As used in this chapter, the
66 following terms have the following meanings unless the context
67 clearly indicates otherwise:

68 (1) ~~(11)~~ "Campaign fund raiser" means any affair held to
69 raise funds to be used in a campaign for public office.

70 (2) ~~(9)~~ "Campaign treasurer" means an individual appointed
71 by a candidate or political committee as provided in this
72 chapter.



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73 (3)~~(16)~~ "Candidate" means any person to whom any one or
74 more of the following apply:

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

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

79 (c) Any person who receives contributions or makes
80 expenditures, or consents for any other person to receive
81 contributions or make expenditures, with a view to bring about
82 his or her nomination or election to, or retention in, public
83 office.

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

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

88

89 ~~However, this definition does not include any candidate for a~~
90 ~~political party executive committee.~~ Expenditures related to
91 potential candidate polls as provided in s. 106.17 are not
92 contributions or expenditures for purposes of this subsection.

93 ~~(2) "Committee of continuous existence" means any group,~~
94 ~~organization, association, or other such entity which is~~
95 ~~certified pursuant to the provisions of s. 106.04.~~

96 (4)~~(13)~~ "Communications media" means broadcasting
97 stations, newspapers, magazines, outdoor advertising facilities,
98 printers, direct mail, advertising agencies, the Internet, and
99 telephone companies; but with respect to telephones, an
100 expenditure shall be deemed to be an expenditure for the use of



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101 | communications media only if made for the costs of telephones,
102 | paid telephonists, or automatic telephone equipment to be used
103 | by a candidate or a political committee to communicate with
104 | potential voters but excluding any costs of telephones incurred
105 | by a volunteer for use of telephones by such volunteer; however,
106 | with respect to the Internet, an expenditure shall be deemed an
107 | expenditure for use of communications media only if made for the
108 | cost of creating or disseminating a message on a computer
109 | information system accessible by more than one person but
110 | excluding internal communications of a campaign or of any group.

111 | (5)~~(3)~~ "Contribution" means:

112 | (a) A gift, subscription, conveyance, deposit, loan,
113 | payment, or distribution of money or anything of value,
114 | including contributions in kind having an attributable monetary
115 | value in any form, made for the purpose of influencing the
116 | results of an election or making an electioneering
117 | communication.

118 | (b) A transfer of funds between political committees,
119 | ~~between committees of continuous existence,~~ between
120 | electioneering communications organizations, or between any
121 | combination of these groups.

122 | (c) The payment, by any person other than a candidate or
123 | political committee, of compensation for the personal services
124 | of another person which are rendered to a candidate or political
125 | committee without charge to the candidate or committee for such
126 | services.

127 | (d) The transfer of funds by a campaign treasurer or
128 | deputy campaign treasurer between a primary depository and a



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129 separate interest-bearing account or certificate of deposit, and
130 the term includes any interest earned on such account or
131 certificate.

132

133 Notwithstanding the foregoing meanings of "contribution," the
134 term may not be construed to include services, including, but
135 not limited to, legal and accounting services, provided without
136 compensation by individuals volunteering a portion or all of
137 their time on behalf of a candidate or political committee or
138 editorial endorsements.

139 ~~(6)-(12)~~ "Division" means the Division of Elections of the
140 Department of State.

141 ~~(7)-(6)~~ "Election" means any primary election, special
142 primary election, general election, special election, or
143 municipal election held in this state for the purpose of
144 nominating or electing candidates to public office, choosing
145 delegates to the national nominating conventions of political
146 parties, or submitting an issue to the electors for their
147 approval or rejection.

148 ~~(8)-(18)~~(a) "Electioneering communication" means any
149 communication that is publicly distributed by a television
150 station, radio station, cable television system, satellite
151 system, newspaper, magazine, direct mail, or telephone and that:

152 1. Refers to or depicts a clearly identified candidate for
153 office without expressly advocating the election or defeat of a
154 candidate but that is susceptible of no reasonable
155 interpretation other than an appeal to vote for or against a
156 specific candidate;



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

160 3. Is targeted to the relevant electorate in the
161 geographic area the candidate would represent if elected.

162 (b) The term "electioneering communication" does not
163 include:

164 1. A communication disseminated through a means of
165 communication other than a television station, radio station,
166 cable television system, satellite system, newspaper, magazine,
167 direct mail, telephone, or statement or depiction by an
168 organization, in existence prior to the time during which a
169 candidate named or depicted qualifies for that election, made in
170 that organization's newsletter, which newsletter is distributed
171 only to members of that organization.

172 2. A communication in a news story, commentary, or
173 editorial distributed through the facilities of any radio
174 station, television station, cable television system, or
175 satellite system, unless the facilities are owned or controlled
176 by any political party, political committee, or candidate. A
177 news story distributed through the facilities owned or
178 controlled by any political party, political committee, or
179 candidate may nevertheless be exempt if it represents a bona
180 fide news account communicated through a licensed broadcasting
181 facility and the communication is part of a general pattern of
182 campaign-related news accounts that give reasonably equal
183 coverage to all opposing candidates in the area.



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184 3. A communication that constitutes a public debate or
185 forum that includes at least two opposing candidates for an
186 office or one advocate and one opponent of an issue, or that
187 solely promotes such a debate or forum and is made by or on
188 behalf of the person sponsoring the debate or forum, provided
189 that:

190 a. The staging organization is either:

191 (I) A charitable organization that does not make other
192 electioneering communications and does not otherwise support or
193 oppose any political candidate or political party; or

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

196 b. The staging organization does not structure the debate
197 to promote or advance one candidate or issue position over
198 another.

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

202 (d) For purposes of this chapter, an electioneering
203 communication shall not constitute an independent expenditure
204 nor be subject to the limitations applicable to independent
205 expenditures.

206 ~~(9)(19)~~ "Electioneering communications organization" means
207 any group, other than a political party, affiliated party
208 committee, or political committee, ~~or committee of continuous~~
209 ~~existence~~, whose election-related activities are limited to
210 making expenditures for electioneering communications or
211 accepting contributions for the purpose of making electioneering



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212 communications and whose activities would not otherwise require
213 the group to register as a political party or, political
214 committee, ~~or committee of continuous existence~~ under this
215 chapter.

216 (10)~~(4)~~(a) "Expenditure" means a purchase, payment,
217 distribution, loan, advance, transfer of funds by a campaign
218 treasurer or deputy campaign treasurer between a primary
219 depository and a separate interest-bearing account or
220 certificate of deposit, or gift of money or anything of value
221 made for the purpose of influencing the results of an election
222 or making an electioneering communication. However,
223 "expenditure" does not include a purchase, payment,
224 distribution, loan, advance, or gift of money or anything of
225 value made for the purpose of influencing the results of an
226 election when made by an organization, in existence prior to the
227 time during which a candidate qualifies or an issue is placed on
228 the ballot for that election, for the purpose of printing or
229 distributing such organization's newsletter, containing a
230 statement by such organization in support of or opposition to a
231 candidate or issue, which newsletter is distributed only to
232 members of such organization.

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

236 1. A person enters into a contract for applicable goods or
237 services;



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238 2. A person makes payment, in whole or in part, for the
239 production or public dissemination of applicable goods or
240 services; or

241 3. The electioneering communication is publicly
242 disseminated.

243 ~~(11)-(14)~~ "Filing officer" means the person before whom a
244 candidate qualifies or, the agency or officer with whom a
245 political committee or an electioneering communications
246 organization registers, ~~or the agency by whom a committee of~~
247 ~~continuous existence is certified.~~

248 ~~(12)-(5)~~ (a) "Independent expenditure" means an expenditure
249 by a person for the purpose of expressly advocating the election
250 or defeat of a candidate or the approval or rejection of an
251 issue, which expenditure is not controlled by, coordinated with,
252 or made upon consultation with, any candidate, political
253 committee, or agent of such candidate or committee. An
254 expenditure for such purpose by a person having a contract with
255 the candidate, political committee, or agent of such candidate
256 or committee in a given election period shall not be deemed an
257 independent expenditure.

258 (b) An expenditure for the purpose of expressly advocating
259 the election or defeat of a candidate which is made by the
260 national, state, or county executive committee of a political
261 party, including any subordinate committee of the political
262 party, an affiliated party committee, a political committee, a
263 ~~committee of continuous existence~~, or any other person shall not
264 be considered an independent expenditure if the committee or
265 person:



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266 1. Communicates with the candidate, the candidate's
267 campaign, or an agent of the candidate acting on behalf of the
268 candidate, including any pollster, media consultant, advertising
269 agency, vendor, advisor, or staff member, concerning the
270 preparation of, use of, or payment for, the specific expenditure
271 or advertising campaign at issue; or

272 2. Makes a payment in cooperation, consultation, or
273 concert with, at the request or suggestion of, or pursuant to
274 any general or particular understanding with the candidate, the
275 candidate's campaign, a political committee supporting the
276 candidate, or an agent of the candidate relating to the specific
277 expenditure or advertising campaign at issue; or

278 3. Makes a payment for the dissemination, distribution, or
279 republication, in whole or in part, of any broadcast or any
280 written, graphic, or other form of campaign material prepared by
281 the candidate, the candidate's campaign, or an agent of the
282 candidate, including any pollster, media consultant, advertising
283 agency, vendor, advisor, or staff member; or

284 4. Makes a payment based on information about the
285 candidate's plans, projects, or needs communicated to a member
286 of the committee or person by the candidate or an agent of the
287 candidate, provided the committee or person uses the information
288 in any way, in whole or in part, either directly or indirectly,
289 to design, prepare, or pay for the specific expenditure or
290 advertising campaign at issue; or

291 5. After the last day of the qualifying period prescribed
292 for the candidate, consults about the candidate's plans,
293 projects, or needs in connection with the candidate's pursuit of



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294 election to office and the information is used in any way to
295 plan, create, design, or prepare an independent expenditure or
296 advertising campaign, with:

297 a. Any officer, director, employee, or agent of a
298 national, state, or county executive committee of a political
299 party or an affiliated party committee that has made or intends
300 to make expenditures in connection with or contributions to the
301 candidate; or

302 b. Any person whose professional services have been
303 retained by a national, state, or county executive committee of
304 a political party or an affiliated party committee that has made
305 or intends to make expenditures in connection with or
306 contributions to the candidate; or

307 6. After the last day of the qualifying period prescribed
308 for the candidate, retains the professional services of any
309 person also providing those services to the candidate in
310 connection with the candidate's pursuit of election to office;
311 or

312 7. Arranges, coordinates, or directs the expenditure, in
313 any way, with the candidate or an agent of the candidate.

314 ~~(13)-(7)~~ "Issue" means any proposition which is required by
315 the State Constitution, by law or resolution of the Legislature,
316 or by the charter, ordinance, or resolution of any political
317 subdivision of this state to be submitted to the electors for
318 their approval or rejection at an election, or any proposition
319 for which a petition is circulated in order to have such
320 proposition placed on the ballot at any election.



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321 | (14)~~(8)~~ "Person" means an individual or a corporation,
322 | association, firm, partnership, joint venture, joint stock
323 | company, club, organization, estate, trust, business trust,
324 | syndicate, or other combination of individuals having collective
325 | capacity. The term includes a political party, affiliated party
326 | committee, or political committee,~~or committee of continuous~~
327 | ~~existence.~~

328 | (15)~~(17)~~ "Political advertisement" means a paid expression
329 | in any communications media prescribed in subsection (4) ~~(13)~~,
330 | whether radio, television, newspaper, magazine, periodical,
331 | campaign literature, direct mail, or display or by means other
332 | than the spoken word in direct conversation, which expressly
333 | advocates the election or defeat of a candidate or the approval
334 | or rejection of an issue. However, political advertisement does
335 | not include:

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

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

344 | (16)~~(1)~~(a) "Political committee" means:

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



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348 a. Accepts contributions for the purpose of making
349 contributions to any candidate, political committee, ~~committee~~
350 ~~of continuous existence~~, affiliated party committee, or
351 political party;

352 b. Accepts contributions for the purpose of expressly
353 advocating the election or defeat of a candidate or the passage
354 or defeat of an issue;

355 c. Makes expenditures that expressly advocate the election
356 or defeat of a candidate or the passage or defeat of an issue;
357 or

358 d. Makes contributions to a common fund, other than a
359 joint checking account between spouses, from which contributions
360 are made to any candidate, political committee, ~~committee of~~
361 ~~continuous existence~~, affiliated party committee, or political
362 party;

363 2. The sponsor of a proposed constitutional amendment by
364 initiative who intends to seek the signatures of registered
365 electors.

366 (b) Notwithstanding paragraph (a), the following entities
367 are not considered political committees for purposes of this
368 chapter:

369 1. ~~Organizations which are certified by the Department of~~
370 ~~State as committees of continuous existence pursuant to s.~~
371 ~~106.04~~, National political parties, the state and county
372 executive committees of political parties, and affiliated party
373 committees regulated by chapter 103.

374 2. Corporations regulated by chapter 607 or chapter 617 or
375 other business entities formed for purposes other than to



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376 support or oppose issues or candidates, if their political
377 activities are limited to contributions to candidates, political
378 parties, affiliated party committees, or political committees or
379 expenditures in support of or opposition to an issue from
380 corporate or business funds and if no contributions are received
381 by such corporations or business entities.

382 3. Electioneering communications organizations as defined
383 in subsection (9) ~~(19)~~.

384 (17)~~(10)~~ "Public office" means any state, county,
385 municipal, or school or other district office or position which
386 is filled by vote of the electors.

387 (18)~~(15)~~ "Unopposed candidate" means a candidate for
388 nomination or election to an office who, after the last day on
389 which any person, including a write-in candidate, may qualify,
390 is without opposition in the election at which the office is to
391 be filled or who is without such opposition after such date as a
392 result of any primary election or of withdrawal by other
393 candidates seeking the same office. A candidate is not an
394 unopposed candidate if there is a vacancy to be filled under s.
395 100.111(3), if there is a legal proceeding pending regarding the
396 right to a ballot position for the office sought by the
397 candidate, or if the candidate is seeking retention as a justice
398 or judge.

399 Section 7. Subsection (1) of section 106.022, Florida
400 Statutes, is amended to read:

401 106.022 Appointment of a registered agent; duties.-

402 (1) Each political committee, ~~committee of continuous~~
403 ~~existence~~, or electioneering communications organization shall



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404 have and continuously maintain in this state a registered office
405 and a registered agent and must file with the filing officer a
406 statement of appointment for the registered office and
407 registered agent. The statement of appointment must:

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

410 (b) Identify the entity for whom the registered agent
411 serves;

412 (c) Designate the address the registered agent wishes to
413 use to receive mail;

414 (d) Include the entity's undertaking to inform the filing
415 officer of any change in such designated address;

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

420 (f) Contain the signature of the registered agent and the
421 entity engaging the registered agent.

422 Section 8. Paragraph (c) of subsection (1) of section
423 106.025, Florida Statutes, is amended to read:

424 106.025 Campaign fund raisers.—

425 (1)

426 (c) Any tickets or advertising for ~~such~~ a campaign fund
427 raiser must comply with ~~is exempt from~~ the requirements of s.
428 106.143.

429 Section 9. Paragraph (b) of subsection (1) of section
430 106.03, Florida Statutes, is amended to read:



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431 106.03 Registration of political committees and
432 electioneering communications organizations.-

433 (1)

434 (b)1. Each group shall file a statement of organization as
435 an electioneering communications organization within 24 hours
436 after the date on which it makes expenditures for an
437 electioneering communication in excess of \$5,000, if such
438 expenditures are made within the timeframes specified in s.
439 106.011(8)(a)2. ~~106.011(18)(a)2.~~ If the group makes
440 expenditures for an electioneering communication in excess of
441 \$5,000 before the timeframes specified in s. 106.011(8)(a)2.
442 ~~106.011(18)(a)2.~~, it shall file the statement of organization
443 within 24 hours after the 30th day before a primary or special
444 primary election, or within 24 hours after the 60th day before
445 any other election, whichever is applicable.

446 2.a. In a statewide, legislative, or multicounty election,
447 an electioneering communications organization shall file a
448 statement of organization with the Division of Elections.

449 b. In a countywide election or any election held on less
450 than a countywide basis, except as described in sub-subparagraph
451 c., an electioneering communications organization shall file a
452 statement of organization with the supervisor of elections of
453 the county in which the election is being held.

454 c. In a municipal election, an electioneering
455 communications organization shall file a statement of
456 organization with the officer before whom municipal candidates
457 qualify.



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458 d. Any electioneering communications organization that
459 would be required to file a statement of organization in two or
460 more locations need only file a statement of organization with
461 the Division of Elections.

462 Section 10. Section 106.05, Florida Statutes, is amended
463 to read:

464 106.05 Deposit of contributions; statement of campaign
465 treasurer.—All funds received by the campaign treasurer of any
466 candidate or political committee shall, prior to the end of the
467 5th business day following the receipt thereof, Saturdays,
468 Sundays, and legal holidays excluded, be deposited in a campaign
469 depository designated pursuant to s. 106.021, in an account that
470 contains the designated "... (name of the candidate or
471 committee.) ... Campaign Account." Except for contributions to
472 political committees made by payroll deduction, all deposits
473 shall be accompanied by a bank deposit slip containing the name
474 of each contributor and the amount contributed by each. If a
475 contribution is deposited in a secondary campaign depository,
476 the depository shall forward the full amount of the deposit,
477 along with a copy of the deposit slip accompanying the deposit,
478 to the primary campaign depository prior to the end of the 1st
479 business day following the deposit.

480 Section 11. Paragraphs (a) and (b) of subsection (1),
481 subsection (7), and paragraph (b) of subsection (8) of section
482 106.07, Florida Statutes, are amended to read:

483 106.07 Reports; certification and filing.—

484 (1) Each campaign treasurer designated by a candidate or
485 political committee pursuant to s. 106.021 shall file regular



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486 reports of all contributions received, and all expenditures
487 made, by or on behalf of such candidate or political committee.
488 Except as provided in paragraphs (a) and (b) ~~Except for the~~
489 ~~third calendar quarter immediately preceding a general election,~~
490 reports shall be filed on the 10th day following the end of each
491 calendar month ~~quarter~~ from the time the campaign treasurer is
492 appointed, except that, if the 10th day following the end of a
493 month ~~calendar quarter~~ occurs on a Saturday, Sunday, or legal
494 holiday, the report shall be filed on the next following day
495 which is not a Saturday, Sunday, or legal holiday. Monthly
496 ~~Quarterly~~ reports shall include all contributions received and
497 expenditures made during the calendar month ~~quarter~~ which have
498 not otherwise been reported pursuant to this section.

499 (a) For a candidate who is opposed in seeking nomination
500 or election to an office or for a political committee, the
501 following reports shall also be filed if the candidate or
502 political committee is required by law to file reports with the
503 division:

504 1. On the 60th day immediately preceding the primary
505 election, and each week thereafter, with the last weekly report
506 being filed on the 11th day immediately preceding the general
507 election.

508 2. On the 10th day immediately preceding the general
509 election, and each day thereafter, with the last daily report
510 being filed the day before the general election ~~Except as~~
511 ~~provided in paragraph (b), the reports shall also be filed on~~
512 ~~the 32nd, 18th, and 4th days immediately preceding the primary~~
513 ~~and on the 46th, 32nd, 18th, and 4th days immediately preceding~~



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514 ~~the election, for a candidate who is opposed in seeking~~
515 ~~nomination or election to any office, for a political committee,~~
516 ~~or for a committee of continuous existence.~~

517 (b) For a candidate who is opposed in seeking nomination
518 or election to an office or for a political committee, reports
519 shall also be filed on the 60th day immediately preceding the
520 primary election, and each week thereafter, with the last weekly
521 report being filed on the 4th day immediately preceding the
522 general election, if the candidate or political committee is
523 required by law to file reports with a supervisor of elections
524 or municipal officer ~~Any statewide candidate who has requested~~
525 ~~to receive contributions pursuant to the Florida Election~~
526 ~~Campaign Financing Act or any statewide candidate in a race with~~
527 ~~a candidate who has requested to receive contributions pursuant~~
528 ~~to the act shall also file reports on the 4th, 11th, 18th, 25th,~~
529 ~~and 32nd days prior to the primary election, and on the 4th,~~
530 ~~11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the~~
531 ~~general election.~~

532 (7) Notwithstanding any other provisions of this chapter,
533 in any reporting period during which a candidate or political
534 ~~committee, or committee of continuous existence~~ has not received
535 funds, made any contributions, or expended any reportable funds,
536 the filing of the required report for that period is waived.
537 However, the next report filed must specify that the report
538 covers the entire period between the last submitted report and
539 the report being filed, and any candidate or political
540 ~~committee, or committee of continuous existence~~ not reporting by
541 virtue of this subsection on dates prescribed elsewhere in this



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542 chapter shall notify the filing officer in writing on the
543 prescribed reporting date that no report is being filed on that
544 date.

545 (8)

546 (b) Upon determining that a report is late, the filing
547 officer shall immediately notify the candidate or chair of the
548 political committee as to the failure to file a report by the
549 designated due date and that a fine is being assessed for each
550 late day. The fine shall be \$50 per day for the first 3 days
551 late and, thereafter, \$500 per day for each late day, not to
552 exceed 25 percent of the total receipts or expenditures,
553 whichever is greater, for the period covered by the late report.
554 However, for the reports immediately preceding each special
555 primary election, special election, primary election, and
556 general election, the fine shall be \$500 per day for each late
557 day, not to exceed 25 percent of the total receipts or
558 expenditures, whichever is greater, for the period covered by
559 the late report. For reports required under s. 106.141(8)
560 ~~106.141(7)~~, the fine is \$50 per day for each late day, not to
561 exceed 25 percent of the total receipts or expenditures,
562 whichever is greater, for the period covered by the late report.
563 Upon receipt of the report, the filing officer shall determine
564 the amount of the fine which is due and shall notify the
565 candidate or chair or registered agent of the political
566 committee. The filing officer shall determine the amount of the
567 fine due based upon the earliest of the following:

- 568 1. When the report is actually received by such officer.
569 2. When the report is postmarked.



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- 570 3. When the certificate of mailing is dated.
571 4. When the receipt from an established courier company is
572 dated.
573 5. When the electronic receipt issued pursuant to s.
574 106.0705 or other electronic filing system authorized in this
575 section is dated.

576

577 Such fine shall be paid to the filing officer within 20 days
578 after receipt of the notice of payment due, unless appeal is
579 made to the Florida Elections Commission pursuant to paragraph
580 (c). Notice is deemed complete upon proof of delivery of written
581 notice to the mailing or street address on record with the
582 filing officer. In the case of a candidate, such fine shall not
583 be an allowable campaign expenditure and shall be paid only from
584 personal funds of the candidate. An officer or member of a
585 political committee shall not be personally liable for such
586 fine.

587 Section 12. Subsection (1) of section 106.0703, Florida
588 Statutes, is amended to read:

589 106.0703 Electioneering communications organizations;
590 reporting requirements; certification and filing; penalties.-

591 (1)(a) Each electioneering communications organization
592 shall file regular reports of all contributions received and all
593 expenditures made by or on behalf of the organization. Except as
594 provided in paragraphs (b) and (c), reports shall be filed on
595 the 10th day following the end of each calendar month ~~quarter~~
596 from the time the organization is registered. However, if the
597 10th day following the end of a calendar month ~~quarter~~ occurs on



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598 a Saturday, Sunday, or legal holiday, the report shall be filed
599 on the next following day that is not a Saturday, Sunday, or
600 legal holiday. Monthly ~~Quarterly~~ reports shall include all
601 contributions received and expenditures made during the calendar
602 month ~~quarter~~ that have not otherwise been reported pursuant to
603 this section.

604 (b) For an electioneering communications organization
605 required by law to file reports with the division, reports shall
606 also be filed:

607 1. On the 60th day immediately preceding the primary
608 election, and each week thereafter, with the last weekly report
609 being filed on the 11th day immediately preceding the general
610 election.

611 2. On the 10th day immediately preceding the general
612 election, and every day thereafter, with the last daily report
613 being filed the day before the general election ~~Following the~~
614 ~~last day of candidates qualifying for office, the reports shall~~
615 ~~be filed on the 32nd, 18th, and 4th days immediately preceding~~
616 ~~the primary election and on the 46th, 32nd, 18th, and 4th days~~
617 ~~immediately preceding the general election.~~

618 (c) For an electioneering communications organization
619 required by law to file reports with a supervisor of elections
620 or municipal officer, reports shall also be filed on the 60th
621 day immediately preceding the primary election, and each week
622 thereafter, with the last weekly report being filed on the 4th
623 day immediately preceding the general election.

624 (d) When a special election is called to fill a vacancy in
625 office, all electioneering communications organizations making



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626 contributions or expenditures to influence the results of the
627 special election shall file reports with the filing officer on
628 the dates set by the Department of State pursuant to s. 100.111.

629 ~~(e)~~(d) In addition to the reports required by paragraph
630 (a), an electioneering communications organization that is
631 registered with the Department of State and that makes a
632 contribution or expenditure to influence the results of a county
633 or municipal election that is not being held at the same time as
634 a state or federal election must file reports with the county or
635 municipal filing officer on the same dates as county or
636 municipal candidates or committees for that election. The
637 electioneering communications organization must also include the
638 expenditure in the next report filed with the Division of
639 Elections pursuant to this section following the county or
640 municipal election.

641 ~~(f)~~(e) The filing officer shall make available to each
642 electioneering communications organization a schedule
643 designating the beginning and end of reporting periods as well
644 as the corresponding designated due dates.

645 Section 13. Paragraph (b) of subsection (2) and
646 subsections (3) and (4) of section 106.0705, Florida Statutes,
647 are amended to read:

648 106.0705 Electronic filing of campaign treasurer's
649 reports.—

650 (2)(b) Each political committee, ~~committee of continuous~~
651 ~~existence~~, electioneering communications organization,
652 affiliated party committee, or state executive committee that is
653 required to file reports with the division under ~~s. 106.04~~, s.



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654 106.07, s. 106.0703, or s. 106.29, as applicable, must file such
655 reports with the division by means of the division's electronic
656 filing system.

657 (3) Reports filed pursuant to this section shall be
658 completed and filed through the electronic filing system not
659 later than midnight of the day designated. Reports not filed by
660 midnight of the day designated are late filed and are subject to
661 the penalties under ~~s. 106.04(9)~~, s. 106.07(8), s. 106.0703(7),
662 or s. 106.29(3), as applicable.

663 (4) Each report filed pursuant to this section is
664 considered to be under oath by the candidate and treasurer, the
665 chair and treasurer, the treasurer under s. 106.0703, or the
666 leader and treasurer under s. 103.092, whichever is applicable,
667 and such persons are subject to the provisions of ~~s.~~
668 ~~106.04(4)(d)~~, s. 106.07(5), s. 106.0703(4), or s. 106.29(2), as
669 applicable. Persons given a secure sign-on to the electronic
670 filing system are responsible for protecting such from
671 disclosure and are responsible for all filings using such
672 credentials, unless they have notified the division that their
673 credentials have been compromised.

674 Section 14. Effective July 1, 2013, paragraph (a) of
675 subsection (1) of section 106.08, Florida Statutes, is amended
676 to read:

677 106.08 Contributions; limitations on.-

678 (1)(a) Except for political parties or affiliated party
679 committees, no person or, ~~political committee, or committee of~~
680 ~~continuous existence~~ may, in any election, make contributions in
681 excess of the following amounts: ~~\$500 to any candidate for~~



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682 ~~election to or retention in office or to any political committee~~
683 ~~supporting or opposing one or more candidates.~~

684 1. To a candidate for statewide office or for retention as
685 a justice of the Supreme Court, \$5,000. Candidates for the
686 offices of Governor and Lieutenant Governor on the same ticket
687 are considered a single candidate for the purpose of this
688 subparagraph section.

689 2. To a candidate for legislative or multicounty office; a
690 candidate for countywide office or in any election conducted on
691 less than a countywide basis; a candidate for retention as a
692 judge of a district court of appeal; or a candidate for county
693 court judge or circuit judge, \$3,000.

694 Section 15. Paragraph (c) of subsection (1) and
695 subsections (7) and (10) of section 106.08, Florida Statutes,
696 are amended to read:

697 106.08 Contributions; limitations on.-

698 (1)

699 (c) The contribution limits of this subsection apply to
700 each election. For purposes of this subsection, the primary
701 election and general election are separate elections so long as
702 the candidate is not an unopposed candidate as defined in s.
703 106.011 ~~106.011(15)~~. However, for the purpose of contribution
704 limits with respect to candidates for retention as a justice or
705 judge, there is only one election, which is the general
706 election.

707 (7)(a) Any person who knowingly and willfully makes or
708 accepts no more than one contribution in violation of subsection
709 (1) or subsection (5), or any person who knowingly and willfully



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710 fails or refuses to return any contribution as required in
711 subsection (3), commits a misdemeanor of the first degree,
712 punishable as provided in s. 775.082 or s. 775.083. If any
713 corporation, partnership, or other business entity or any
714 political party, affiliated party committee, political
715 committee, ~~committee of continuous existence~~, or electioneering
716 communications organization is convicted of knowingly and
717 willfully violating any provision punishable under this
718 paragraph, it shall be fined not less than \$1,000 and not more
719 than \$10,000. If it is a domestic entity, it may be ordered
720 dissolved by a court of competent jurisdiction; if it is a
721 foreign or nonresident business entity, its right to do business
722 in this state may be forfeited. Any officer, partner, agent,
723 attorney, or other representative of a corporation, partnership,
724 or other business entity, or of a political party, affiliated
725 party committee, political committee, ~~committee of continuous~~
726 ~~existence~~, electioneering communications organization, or
727 organization exempt from taxation under s. 527 or s. 501(c)(4)
728 of the Internal Revenue Code, who aids, abets, advises, or
729 participates in a violation of any provision punishable under
730 this paragraph commits a misdemeanor of the first degree,
731 punishable as provided in s. 775.082 or s. 775.083.

732 (b) Any person who knowingly and willfully makes or
733 accepts two or more contributions in violation of subsection (1)
734 or subsection (5) commits a felony of the third degree,
735 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
736 If any corporation, partnership, or other business entity or any
737 political party, affiliated party committee, political



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738 committee, ~~committee of continuous existence~~, or electioneering
739 communications organization is convicted of knowingly and
740 willfully violating any provision punishable under this
741 paragraph, it shall be fined not less than \$10,000 and not more
742 than \$50,000. If it is a domestic entity, it may be ordered
743 dissolved by a court of competent jurisdiction; if it is a
744 foreign or nonresident business entity, its right to do business
745 in this state may be forfeited. Any officer, partner, agent,
746 attorney, or other representative of a corporation, partnership,
747 or other business entity, or of a political committee, ~~committee~~
748 ~~of continuous existence~~, political party, affiliated party
749 committee, or electioneering communications organization, or
750 organization exempt from taxation under s. 527 or s. 501(c)(4)
751 of the Internal Revenue Code, who aids, abets, advises, or
752 participates in a violation of any provision punishable under
753 this paragraph commits a felony of the third degree, punishable
754 as provided in s. 775.082, s. 775.083, or s. 775.084.

755 (10) Contributions to a political committee ~~or committee~~
756 ~~of continuous existence~~ may be received by an affiliated
757 organization and transferred to the bank account of the
758 political committee ~~or committee of continuous existence~~ via
759 check written from the affiliated organization if such
760 contributions are specifically identified as intended to be
761 contributed to the political committee ~~or committee of~~
762 ~~continuous existence~~. All contributions received in this manner
763 shall be reported pursuant to s. 106.07 by the political
764 committee ~~or committee of continuous existence~~ as having been
765 made by the original contributor.



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766 Section 16. Subsection (2) of section 106.087, Florida
767 Statutes, is amended to read:

768 106.087 Independent expenditures; contribution limits;
769 restrictions on political parties and political committees, ~~and~~
770 ~~committees of continuous existence.~~

771 (2) (a) Any political committee ~~or committee of continuous~~
772 ~~existence~~ that accepts the use of public funds, equipment,
773 personnel, or other resources to collect dues from its members
774 agrees not to make independent expenditures in support of or
775 opposition to a candidate or elected public official. However,
776 expenditures may be made for the sole purpose of jointly
777 endorsing three or more candidates.

778 (b) Any political committee ~~or committee of continuous~~
779 ~~existence~~ that violates this subsection is liable for a civil
780 fine of up to \$5,000 to be determined by the Florida Elections
781 Commission or the entire amount of the expenditures, whichever
782 is greater.

783 Section 17. Paragraph (b) of subsection (1) and paragraph
784 (a) of subsection (2) of section 106.11, Florida Statutes, are
785 amended to read:

786 106.11 Expenses of and expenditures by candidates and
787 political committees.—Each candidate and each political
788 committee which designates a primary campaign depository
789 pursuant to s. 106.021(1) shall make expenditures from funds on
790 deposit in such primary campaign depository only in the
791 following manner, with the exception of expenditures made from
792 petty cash funds provided by s. 106.12:

793 (1)



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

796 1. The ~~statement "... (name of the campaign account of the~~
797 ~~candidate or political committee.) ... Campaign Account."~~

798 2. The account number and the name of the bank.

799 3. The exact amount of the expenditure.

800 4. The signature of the campaign treasurer or deputy
801 treasurer.

802 5. The exact purpose for which the expenditure is
803 authorized.

804 6. The name of the payee.

805 (2)(a) For purposes of this section, debit cards are
806 considered bank checks, if:

807 1. Debit cards are obtained from the same bank that has
808 been designated as the candidate's or political committee's
809 primary campaign depository.

810 2. Debit cards are issued in the name of the treasurer,
811 deputy treasurer, or authorized user and contain the state
812 "... (name of the campaign account of the candidate or political
813 committee.) ... Campaign Account."

814 3. No more than three debit cards are requested and
815 issued.

816 4. The person using the debit card does not receive cash
817 as part of, or independent of, any transaction for goods or
818 services.

819 5. All receipts for debit card transactions contain:

820 a. The last four digits of the debit card number.

821 b. The exact amount of the expenditure.



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822 c. The name of the payee.

823 d. The signature of the campaign treasurer, deputy
824 treasurer, or authorized user.

825 e. The exact purpose for which the expenditure is
826 authorized.

827 Any information required by this subparagraph but not included
828 on the debit card transaction receipt may be handwritten on, or
829 attached to, the receipt by the authorized user before
830 submission to the treasurer.

831 Section 18. Subsection (3) of section 106.12, Florida
832 Statutes, is amended to read:

833 106.12 Petty cash funds allowed.—

834 (3) The petty cash fund so provided shall be spent only in
835 amounts less than \$100 and only for office supplies,
836 transportation expenses, and other necessities. Petty cash shall
837 not be used for the purchase of time, space, or services from
838 communications media as defined in s. 106.011 ~~106.011(13)~~.

839 Section 19. Section 106.141, Florida Statutes, is amended
840 to read:

841 106.141 Disposition of surplus funds by candidates.—

842 (1) Except as provided in subsection (6), each candidate
843 who withdraws his or her candidacy, becomes an unopposed
844 candidate, or is eliminated as a candidate or elected to office
845 shall, within 90 days, dispose of the funds on deposit in his or
846 her campaign account and file a report reflecting the
847 disposition of all remaining funds. Such candidate shall not
848 accept any contributions, nor shall any person accept
849 contributions on behalf of such candidate, after the candidate



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850 | withdraws his or her candidacy, becomes unopposed, or is
851 | eliminated or elected. However, if a candidate receives a refund
852 | check after all surplus funds have been disposed of, the check
853 | may be endorsed by the candidate and the refund disposed of
854 | under this section. An amended report must be filed showing the
855 | refund and subsequent disposition.

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

860 | (3) The campaign treasurer of a candidate who withdraws
861 | his or her candidacy, becomes unopposed, or is eliminated as a
862 | candidate or elected to office and who has funds on deposit in a
863 | separate interest-bearing account or certificate of deposit
864 | shall, within 7 days after the date of becoming unopposed or the
865 | date of such withdrawal, elimination, or election, transfer such
866 | funds and the accumulated interest earned thereon to the
867 | campaign account of the candidate for disposal under this
868 | section. However, if the funds are in an account in which
869 | penalties will apply for withdrawal within the 7-day period, the
870 | campaign treasurer shall transfer such funds and the accumulated
871 | interest earned thereon as soon as the funds can be withdrawn
872 | without penalty, or within 90 days after the candidate becomes
873 | unopposed, withdraws his or her candidacy, or is eliminated or
874 | elected, whichever comes first.

875 | (4) (a) Except as provided in paragraph (b), any candidate
876 | required to dispose of funds pursuant to this section shall, at



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877 the option of the candidate, dispose of such funds by any of the
878 following means, or any combination thereof:

879 1. Return pro rata to each contributor the funds that have
880 not been spent or obligated.

881 2. Donate the funds that have not been spent or obligated
882 to a charitable organization or organizations that meet the
883 qualifications of s. 501(c)(3) of the Internal Revenue Code.

884 3. Give not more than \$50,000 of the funds that have not
885 been spent or obligated to the affiliated party committee or
886 political party of which such candidate is a member.

887 4. Give the funds that have not been spent or obligated:

888 a. In the case of a candidate for state office, to the
889 state, to be deposited in either the Election Campaign Financing
890 Trust Fund or the General Revenue Fund, as designated by the
891 candidate; or

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

895 (b) Any candidate required to dispose of funds pursuant to
896 this section who has received contributions pursuant to the
897 Florida Election Campaign Financing Act shall, after all
898 monetary commitments pursuant to s. 106.11(5)(b) and (c) have
899 been met, return all surplus campaign funds to the General
900 Revenue Fund.

901 (5) A candidate elected to office or a candidate who will
902 be elected to office by virtue of his or her being unopposed
903 may, in addition to the disposition methods provided in
904 subsection (4), transfer from the campaign account to an office



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905 account any amount of the funds on deposit in such campaign
906 account up to:

907 (a) Fifty ~~Twenty~~ thousand dollars, for a candidate for
908 statewide office. The Governor and Lieutenant Governor shall be
909 considered separate candidates for the purpose of this section.

910 (b) Ten ~~Five~~ thousand dollars, for a candidate for
911 multicounty office.

912 (c) Ten ~~Five~~ thousand dollars multiplied by the number of
913 years in the term of office for which elected, for a candidate
914 for legislative office.

915 (d) Five thousand ~~Two thousand five hundred~~ dollars
916 multiplied by the number of years in the term of office for
917 which elected, for a candidate for county office or for a
918 candidate in any election conducted on less than a countywide
919 basis.

920 (e) Six thousand dollars, for a candidate for retention as
921 a justice of the Supreme Court.

922 (f) Three thousand dollars, for a candidate for retention
923 as a judge of a district court of appeal.

924 (g) Three thousand ~~One thousand five hundred~~ dollars, for
925 a candidate for county court judge or circuit judge.

926

927 The office account established pursuant to this subsection shall
928 be separate from any personal or other account. Any funds so
929 transferred by a candidate shall be used only for legitimate
930 expenses in connection with the candidate's public office. Such
931 expenses may include travel expenses incurred by the officer or
932 a staff member, personal taxes payable on office account funds



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933 | by the candidate or elected public official; professional
934 | services provided by a certified public accountant for
935 | preparation of the elected public official's financial
936 | disclosure filing pursuant to s. 112.3144 or s. 112.3145; costs
937 | to prepare, print, produce, and mail holiday cards or
938 | newsletters about the elected public official's public business
939 | to constituents, if such correspondence does not constitute a
940 | political advertisement, independent expenditure, or
941 | electioneering communication as provided in s. 106.011; fees or
942 | dues to religious, civic, or charitable organizations of which
943 | the elected public official is a member; items of modest value
944 | such as flowers, greeting cards, or personal notes given as a
945 | substitute for, or in association with, an elected public
946 | official's personal attendance at a constituent's special event
947 | or family occasion, such as the birth of a child, graduation,
948 | wedding, or funeral; personal expenses incurred by the elected
949 | public official in connection with attending a constituent
950 | meeting or event where public policy is discussed, if such
951 | meetings or events are limited to no more than once a week; or
952 | expenses incurred in the operation of his or her office,
953 | including the employment of additional staff. The funds may be
954 | deposited in a savings account; however, all deposits,
955 | withdrawals, and interest earned thereon shall be reported at
956 | the appropriate reporting period. If a candidate is reelected to
957 | office or elected to another office and has funds remaining in
958 | his or her office account, he or she may transfer surplus
959 | campaign funds to the office account. At no time may the funds
960 | in the office account exceed the limitation imposed by this



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961 subsection. Upon leaving public office, any person who has funds
962 in an office account pursuant to this subsection remaining on
963 deposit shall give such funds to a charitable organization or
964 organizations which meet the requirements of s. 501(c)(3) of the
965 Internal Revenue Code or, in the case of a state officer, to the
966 state to be deposited in the General Revenue Fund or, in the
967 case of an officer of a political subdivision, to the political
968 subdivision to be deposited in the general fund thereof.

969 (6) (a) A candidate elected to state office or a candidate
970 who will be elected to state office by virtue of his or her
971 being unopposed may, in addition to the disposition methods
972 provided in subsections (4) and (5), retain up to \$50,000 in his
973 or her campaign account, or in an interest-bearing account or
974 certificate of deposit, for use in his or her next campaign for
975 the same office. All requirements applicable to candidate
976 campaign accounts under this chapter, including disclosure
977 requirements applicable to candidate campaign accounts,
978 limitations on expenditures, and limitations on contributions,
979 shall apply to any retained funds.

980 (b) If a candidate who retained funds under this
981 subsection does not qualify as a candidate for the same office
982 when the office is next on the ballot, all retained funds shall
983 be disposed of as otherwise required by this section within 90
984 days after the last day of qualifying for that office.
985 Requirements in this section applicable to the disposal of
986 surplus funds, including reporting requirements, are applicable
987 to the disposal of retained funds.



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988 (7)(6) ~~Before Prior to~~ disposing of funds pursuant to
989 subsection (4), ~~or~~ transferring funds into an office account
990 pursuant to subsection (5), or retaining funds for reelection
991 pursuant to subsection (6), any candidate who filed an oath
992 stating that he or she was unable to pay the election assessment
993 ~~or~~ fee for verification of petition signatures without imposing
994 an undue burden on his or her personal resources or on resources
995 otherwise available to him or her, ~~or who filed both such oaths,~~
996 ~~or who qualified by the petition process and was not required to~~
997 ~~pay an election assessment,~~ shall reimburse the state or local
998 governmental entity, whichever is applicable, for such waived
999 assessment or fee or both. ~~Such reimbursement shall be made~~
1000 ~~first for the cost of petition verification and then, if funds~~
1001 ~~are remaining, for the amount of the election assessment. If~~
1002 there are insufficient funds in the account to pay the full
1003 amount of ~~either the assessment or the fee or both,~~ the
1004 remaining funds shall be disbursed in the above manner until no
1005 funds remain. All funds disbursed pursuant to this subsection
1006 shall be remitted to the qualifying officer. Any reimbursement
1007 for petition verification costs which are reimbursable by the
1008 state shall be forwarded by the qualifying officer to the state
1009 for deposit in the General Revenue Fund. ~~All reimbursements for~~
1010 ~~the amount of the election assessment shall be forwarded by the~~
1011 ~~qualifying officer to the Department of State for deposit in the~~
1012 ~~General Revenue Fund.~~

1013 (8)(7)(a) Any candidate required to dispose of campaign
1014 funds pursuant to this section shall do so within the time
1015 required by this section and shall, on or before the date by



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1016 which such disposition is to have been made, file with the
1017 officer with whom reports are required to be filed pursuant to
1018 s. 106.07 a form prescribed by the Division of Elections
1019 listing:

1020 1. The name and address of each person or unit of
1021 government to whom any of the funds were distributed and the
1022 amounts thereof;

1023 2. The name and address of each person to whom an
1024 expenditure was made, together with the amount thereof and
1025 purpose therefor; ~~and~~

1026 3. The amount of such funds transferred to an office
1027 account by the candidate, together with the name and address of
1028 the bank in which the office account is located; and

1029 4. The amount of such funds retained pursuant to
1030 subsection (6).

1031

1032 Such report shall be signed by the candidate and the campaign
1033 treasurer and certified as true and correct pursuant to s.
1034 106.07.

1035 (b) The filing officer shall notify each candidate at
1036 least 14 days before the date the report is due.

1037 (c) Any candidate failing to file a report on the
1038 designated due date shall be subject to a fine as provided in s.
1039 106.07 for submitting late termination reports.

1040 (9)~~(8)~~ Any candidate elected to office who transfers
1041 surplus campaign funds into an office account pursuant to
1042 subsection (5) shall file a report on the 10th day following the
1043 end of each calendar quarter until the account is closed. Such



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1044 reports shall contain the name and address of each person to
1045 whom any disbursement of funds was made, together with the
1046 amount thereof and the purpose therefor, and the name and
1047 address of any person from whom the elected candidate received
1048 any refund or reimbursement and the amount thereof. Such reports
1049 shall be on forms prescribed by the Division of Elections,
1050 signed by the elected candidate, certified as true and correct,
1051 and filed with the officer with whom campaign reports were filed
1052 pursuant to s. 106.07(2).

1053 ~~(10)~~⁽⁹⁾ Any candidate, or any person on behalf of a
1054 candidate, who accepts contributions after such candidate has
1055 withdrawn his or her candidacy, after the candidate has become
1056 an unopposed candidate, or after the candidate has been
1057 eliminated as a candidate or elected to office commits a
1058 misdemeanor of the first degree, punishable as provided in s.
1059 775.082 or s. 775.083.

1060 ~~(11)~~⁽¹⁰⁾ Any candidate who is required by the provisions
1061 of this section to dispose of funds in his or her campaign
1062 account and who fails to dispose of the funds in the manner
1063 provided in this section commits a misdemeanor of the first
1064 degree, punishable as provided in s. 775.082 or s. 775.083.

1065 Section 20. Paragraph (b) of subsection (3) of section
1066 106.147, Florida Statutes, is amended to read:

1067 106.147 Telephone solicitation; disclosure requirements;
1068 prohibitions; exemptions; penalties.—

1069 (3)(b) For purposes of paragraph (a), the term "person"
1070 includes any candidate; any officer of any political committee,
1071 ~~committee of continuous existence,~~ affiliated party committee,



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1072 or political party executive committee; any officer, partner,
1073 attorney, or other representative of a corporation, partnership,
1074 or other business entity; and any agent or other person acting
1075 on behalf of any candidate, political committee, ~~committee of~~
1076 ~~continuous existence~~, affiliated party committee, political
1077 party executive committee, or corporation, partnership, or other
1078 business entity.

1079 Section 21. Section 106.17, Florida Statutes, is amended
1080 to read:

1081 106.17 Polls and surveys relating to candidacies.—Any
1082 candidate, political committee, ~~committee of continuous~~
1083 ~~existence~~, electioneering communication organization, affiliated
1084 party committee, or state or county executive committee of a
1085 political party may authorize or conduct a political poll,
1086 survey, index, or measurement of any kind relating to candidacy
1087 for public office so long as the candidate, political committee,
1088 ~~committee of continuous existence~~, electioneering communication
1089 organization, affiliated party committee, or political party
1090 maintains complete jurisdiction over the poll in all its
1091 aspects. State and county executive committees of a political
1092 party or an affiliated party committee may authorize and conduct
1093 political polls for the purpose of determining the viability of
1094 potential candidates. Such poll results may be shared with
1095 potential candidates, and expenditures incurred by state and
1096 county executive committees or an affiliated party committee for
1097 potential candidate polls are not contributions to the potential
1098 candidates.



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1099 Section 22. Subsection (2) of section 106.23, Florida
1100 Statutes, is amended to read:

1101 106.23 Powers of the Division of Elections.—

1102 (2) The Division of Elections shall provide advisory
1103 opinions when requested by any supervisor of elections,
1104 candidate, local officer having election-related duties,
1105 political party, affiliated party committee, political
1106 committee, ~~committee of continuous existence,~~ or other person or
1107 organization engaged in political activity, relating to any
1108 provisions or possible violations of Florida election laws with
1109 respect to actions such supervisor, candidate, local officer
1110 having election-related duties, political party, affiliated
1111 party committee, committee, person, or organization has taken or
1112 proposes to take. Requests for advisory opinions must be
1113 submitted in accordance with rules adopted by the Department of
1114 State. A written record of all such opinions issued by the
1115 division, sequentially numbered, dated, and indexed by subject
1116 matter, shall be retained. A copy shall be sent to said person
1117 or organization upon request. Any such person or organization,
1118 acting in good faith upon such an advisory opinion, shall not be
1119 subject to any criminal penalty provided for in this chapter.
1120 The opinion, until amended or revoked, shall be binding on any
1121 person or organization who sought the opinion or with reference
1122 to whom the opinion was sought, unless material facts were
1123 omitted or misstated in the request for the advisory opinion.

1124 Section 23. Subsections (2) and (3) of section 106.265,
1125 Florida Statutes, are amended to read:

1126 106.265 Civil penalties.—



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1127 (2) In determining the amount of such civil penalties, the
1128 commission or administrative law judge shall consider, among
1129 other mitigating and aggravating circumstances:

1130 (a) The gravity of the act or omission;

1131 (b) Any previous history of similar acts or omissions;

1132 (c) The appropriateness of such penalty to the financial
1133 resources of the person, political committee, ~~committee of~~
1134 ~~continuous existence~~, affiliated party committee, electioneering
1135 communications organization, or political party; and

1136 (d) Whether the person, political committee, ~~committee of~~
1137 ~~continuous existence~~, affiliated party committee, electioneering
1138 communications organization, or political party has shown good
1139 faith in attempting to comply with the provisions of this
1140 chapter or chapter 104.

1141 (3) If any person, political committee, ~~committee of~~
1142 ~~continuous existence~~, affiliated party committee, electioneering
1143 communications organization, or political party fails or refuses
1144 to pay to the commission any civil penalties assessed pursuant
1145 to the provisions of this section, the commission shall be
1146 responsible for collecting the civil penalties resulting from
1147 such action.

1148 Section 24. Subsection (2) of section 106.27, Florida
1149 Statutes, is amended to read:

1150 106.27 Determinations by commission; legal disposition.—

1151 (2) Civil actions may be brought by the commission for
1152 relief, including permanent or temporary injunctions,
1153 restraining orders, or any other appropriate order for the
1154 imposition of civil penalties provided by this chapter. Such



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1155 civil actions shall be brought by the commission in the
1156 appropriate court of competent jurisdiction, and the venue shall
1157 be in the county in which the alleged violation occurred or in
1158 which the alleged violator or violators are found, reside, or
1159 transact business. Upon a proper showing that such person,
1160 political committee, ~~committee of continuous existence,~~
1161 affiliated party committee, or political party has engaged, or
1162 is about to engage, in prohibited acts or practices, a permanent
1163 or temporary injunction, restraining order, or other order shall
1164 be granted without bond by such court, and the civil fines
1165 provided by this chapter may be imposed.

1166 Section 25. Subsection (3) of section 106.32, Florida
1167 Statutes, is amended to read:

1168 106.32 Election Campaign Financing Trust Fund.—

1169 (3) Proceeds from assessments pursuant to ss. ~~106.04,~~
1170 ~~106.07,~~ and 106.29 shall be deposited into the Election Campaign
1171 Financing Trust Fund as designated in those sections.

1172 Section 26. Section 106.33, Florida Statutes, is amended
1173 to read:

1174 106.33 Election campaign financing; eligibility.—Each
1175 candidate for the office of Governor or member of the Cabinet
1176 who desires to receive contributions from the Election Campaign
1177 Financing Trust Fund shall, upon qualifying for office, file a
1178 request for such contributions with the filing officer on forms
1179 provided by the Division of Elections. If a candidate requesting
1180 contributions from the fund desires to have such funds
1181 distributed by electronic fund transfers, the request shall
1182 include information necessary to implement that procedure. For



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1183 the purposes of ss. 106.30-106.36, candidates for Governor and
1184 Lieutenant Governor on the same ticket shall be considered as a
1185 single candidate. To be eligible to receive contributions from
1186 the fund, a candidate may not be an unopposed candidate as
1187 defined in s. 106.011 ~~106.011(15)~~ and must:

1188 (1) Agree to abide by the expenditure limits provided in
1189 s. 106.34.

1190 (2) (a) Raise contributions as follows:

1191 1. One hundred fifty thousand dollars for a candidate for
1192 Governor.

1193 2. One hundred thousand dollars for a candidate for
1194 Cabinet office.

1195 (b) Contributions from individuals who at the time of
1196 contributing are not state residents may not be used to meet the
1197 threshold amounts in paragraph (a). For purposes of this
1198 paragraph, any person validly registered to vote in this state
1199 shall be considered a state resident.

1200 (3) Limit loans or contributions from the candidate's
1201 personal funds to \$25,000 and contributions from national,
1202 state, and county executive committees of a political party to
1203 \$250,000 in the aggregate, which loans or contributions shall
1204 not qualify for meeting the threshold amounts in subsection (2).

1205 (4) Submit to a postelection audit of the campaign account
1206 by the division.

1207 Section 27. Subsections (3) and (4) and paragraph (a) of
1208 subsection (5) of section 112.3148, Florida Statutes, are
1209 amended to read:



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1210 112.3148 Reporting and prohibited receipt of gifts by
1211 individuals filing full or limited public disclosure of
1212 financial interests and by procurement employees.-

1213 (3) A reporting individual or procurement employee is
1214 prohibited from soliciting any gift from a political committee
1215 ~~or committee of continuous existence~~, as defined in s. 106.011,
1216 or from a lobbyist who lobbies the reporting individual's or
1217 procurement employee's agency, or the partner, firm, employer,
1218 or principal of such lobbyist, where such gift is for the
1219 personal benefit of the reporting individual or procurement
1220 employee, another reporting individual or procurement employee,
1221 or any member of the immediate family of a reporting individual
1222 or procurement employee.

1223 (4) A reporting individual or procurement employee or any
1224 other person on his or her behalf is prohibited from knowingly
1225 accepting, directly or indirectly, a gift from a political
1226 ~~committee or committee of continuous existence~~, as defined in s.
1227 106.011, or from a lobbyist who lobbies the reporting
1228 individual's or procurement employee's agency, or directly or
1229 indirectly on behalf of the partner, firm, employer, or
1230 principal of a lobbyist, if he or she knows or reasonably
1231 believes that the gift has a value in excess of \$100; however,
1232 such a gift may be accepted by such person on behalf of a
1233 governmental entity or a charitable organization. If the gift is
1234 accepted on behalf of a governmental entity or charitable
1235 organization, the person receiving the gift shall not maintain
1236 custody of the gift for any period of time beyond that



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1237 reasonably necessary to arrange for the transfer of custody and
1238 ownership of the gift.

1239 (5) (a) A political committee ~~or a committee of continuous~~
1240 ~~existence~~, as defined in s. 106.011; a lobbyist who lobbies a
1241 reporting individual's or procurement employee's agency; the
1242 partner, firm, employer, or principal of a lobbyist; or another
1243 on behalf of the lobbyist or partner, firm, principal, or
1244 employer of the lobbyist is prohibited from giving, either
1245 directly or indirectly, a gift that has a value in excess of
1246 \$100 to the reporting individual or procurement employee or any
1247 other person on his or her behalf; however, such person may give
1248 a gift having a value in excess of \$100 to a reporting
1249 individual or procurement employee if the gift is intended to be
1250 transferred to a governmental entity or a charitable
1251 organization.

1252 Section 28. Subsections (3) and (4) of section 112.3149,
1253 Florida Statutes, are amended to read:

1254 112.3149 Solicitation and disclosure of honoraria.-

1255 (3) A reporting individual or procurement employee is
1256 prohibited from knowingly accepting an honorarium from a
1257 political committee ~~or committee of continuous existence~~, as
1258 defined in s. 106.011, from a lobbyist who lobbies the reporting
1259 individual's or procurement employee's agency, or from the
1260 employer, principal, partner, or firm of such a lobbyist.

1261 (4) A political committee ~~or committee of continuous~~
1262 ~~existence~~, as defined in s. 106.011, a lobbyist who lobbies a
1263 reporting individual's or procurement employee's agency, or the
1264 employer, principal, partner, or firm of such a lobbyist is



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1265 prohibited from giving an honorarium to a reporting individual
1266 or procurement employee.

1267 Section 29. Subsection (4) of section 1004.28, Florida
1268 Statutes, is amended to read:

1269 1004.28 Direct-support organizations; use of property;
1270 board of directors; activities; audit; facilities.—

1271 (4) ACTIVITIES; RESTRICTION.—A university direct-support
1272 organization is prohibited from giving, either directly or
1273 indirectly, any gift to a political committee ~~or committee of~~
1274 ~~continuous existence~~ as defined in s. 106.011 for any purpose
1275 other than those certified by a majority roll call vote of the
1276 governing board of the direct-support organization at a
1277 regularly scheduled meeting as being directly related to the
1278 educational mission of the university.

1279 Section 30. Paragraph (d) of subsection (4) of section
1280 1004.70, Florida Statutes, is amended to read:

1281 1004.70 Florida College System institution direct-support
1282 organizations.—

1283 (4) ACTIVITIES; RESTRICTIONS.—

1284 (d) A Florida College System institution direct-support
1285 organization is prohibited from giving, either directly or
1286 indirectly, any gift to a political committee ~~or committee of~~
1287 ~~continuous existence~~ as defined in s. 106.011 for any purpose
1288 other than those certified by a majority roll call vote of the
1289 governing board of the direct-support organization at a
1290 regularly scheduled meeting as being directly related to the
1291 educational mission of the Florida College System institution.



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1292 Section 31. Paragraph (c) of subsection (4) of section
1293 1004.71, Florida Statutes, is amended to read:

1294 1004.71 Statewide Florida College System institution
1295 direct-support organizations.—

1296 (4) RESTRICTIONS.—

1297 (c) A statewide Florida College System institution direct-
1298 support organization is prohibited from giving, either directly
1299 or indirectly, any gift to a political committee ~~or committee of~~
1300 ~~continuous existence~~ as defined in s. 106.011 for any purpose
1301 other than those certified by a majority roll call vote of the
1302 governing board of the direct-support organization at a
1303 regularly scheduled meeting as being directly related to the
1304 educational mission of the State Board of Education.

1305 Section 32. By December 1, 2013, the Division of Elections
1306 of the Department of State shall submit a proposal to the
1307 President of the Senate and the Speaker of the House of
1308 Representatives for a mandatory statewide electronic filing
1309 system for all state and local campaign finance reports required
1310 by s. 106.07, Florida Statutes, s. 106.0703, Florida Statutes,
1311 s. 106.141, Florida Statutes, or s. 106.29, Florida Statutes.

1312 Section 33. (1) For Fiscal Year 2013-2014, one full-time
1313 equivalent position, with associated salary rate of 33,000, is
1314 authorized and \$42,900 in recurring funds from the Elections
1315 Commission Trust Fund within the Department of Legal Affairs is
1316 appropriated to the Florida Elections Commission to carry out
1317 the provisions of this act.

1318 (2) For Fiscal Year 2013-2014, two full-time equivalent
1319 positions, with associated salary rate of 57,297, are authorized



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1320 and \$85,000 in recurring funds from the General Revenue Fund is
1321 appropriated to the Division of Elections of the Department of
1322 State to carry out the provisions of this act.

1323 (3) This section shall take effect July 1, 2013.

1324 Section 34. Except as otherwise expressly provided in this
1325 act and except for this section, which shall take effect upon
1326 this act becoming a law, this act shall take effect November 1,
1327 2013.

1328 -----

1329 **T I T L E A M E N D M E N T**

1330 Remove everything before the enacting clause and insert:
1331 An act relating to the Florida Election Code; repealing s.
1332 106.04, F.S., relating to the certification and political
1333 activities of committees of continuous existence; prohibiting a
1334 committee of continuous existence from accepting a contribution
1335 after a certain date; providing for revocation of the
1336 certification of each committee of continuous existence on a
1337 certain date; requiring the Division of Elections of the
1338 Department of State to provide certain notifications to
1339 committees of continuous existence; amending ss. 101.62,
1340 102.031, and 111.075, F.S.; conforming provisions; amending and
1341 reordering s. 106.011, F.S., relating to definitions applicable
1342 to provisions governing campaign financing; revising the
1343 definition of the term "candidate" to include a candidate for a
1344 political party executive committee; deleting the definition of
1345 the term "committee of continuous existence," to conform;
1346 conforming provisions and cross-references; amending s. 106.022,
1347 F.S.; conforming a provision; amending s. 106.025, F.S.;



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1348 providing that tickets or advertising for a campaign fund raiser
1349 must comply with the requirements of political advertisements
1350 circulated before an election; amending s. 106.03, F.S.;
1351 conforming cross-references; amending s. 106.05, F.S.; revising
1352 the information that is required to appear on a campaign bank
1353 account for deposit of funds; amending s. 106.07, F.S.; revising
1354 reporting requirements for candidates and political committees;
1355 conforming provisions; amending s. 106.0703, F.S.; revising
1356 reporting requirements for electioneering communications
1357 organizations; amending s. 106.0705, F.S.; conforming provisions
1358 and cross-references; amending s. 106.08, F.S.; revising
1359 limitations on campaign contributions; conforming provisions and
1360 a cross-reference; amending s. 106.087, F.S.; conforming
1361 provisions; amending s. 106.11, F.S.; revising the information
1362 that is required to appear on bank account checks of candidates
1363 or political committees; revising information used to determine
1364 when debit cards are considered bank checks; amending s. 106.12,
1365 F.S.; conforming a cross-reference; amending s. 106.141, F.S.;
1366 specifying the amount of surplus funds a candidate may give to
1367 an affiliated party committee or political party; providing for
1368 amount of funds that certain candidates may transfer to an
1369 office account; specifying permissible uses of office account
1370 funds; providing for retention of surplus campaign funds by a
1371 candidate for specified purposes; providing reporting
1372 requirements for surplus campaign funds; providing for
1373 disposition of the funds; modifying requirements for disposing
1374 of or transferring surplus funds; amending ss. 106.147, 106.17,
1375 106.23, 106.265, 106.27, 106.32, 106.33, 112.3148, 112.3149,



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 569 (2013)

Amendment No.

1376 | 1004.28, 1004.70, and 1004.71, F.S.; conforming provisions and
1377 | cross-references; directing the Division of Elections to submit
1378 | a proposal to the Legislature for a mandatory statewide
1379 | electronic filing system; providing appropriations; providing
1380 | effective dates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7011 PCB GVOPS 13-01 Florida Retirement System
SPONSOR(S): Appropriations Committee; Government Operations Subcommittee; Brodeur
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee	9 Y, 3 N	Harrington	Williamson
1) Appropriations Committee	13 Y, 9 N, As CS	Delaney	Leznoff
2) State Affairs Committee		Harrington	Camechis

SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits to 623,011 active members, 334,682 retired members and beneficiaries, and 40,556 members of the Deferred Retirement Option Program. It is the primary retirement plan for employees of the state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system.

Members of the FRS have two plan options available for participation: the defined benefit plan, also known as the pension plan, and the defined contribution plan, also known as the investment plan. In addition to the two primary plans, some eligible members have the choice of participating in optional retirement plans, which include the Senior Management Service Optional Annuity Program, State Community College System Optional Retirement Program, and the State University System Optional Retirement Program.

This bill makes changes to the FRS, including, but not limited to:

- Closing the pension plan (defined benefit) to new enrollees, and requiring all new enrollees to participate in the investment plan (defined contribution), effective January 1, 2014;
- Eliminating the option for new enrollees to apply for disability benefits, effective January 1, 2014;
- Expanding the investment options available to investment plan members; and
- Closing the Senior Management Service Optional Annuity Program to new participants and prohibiting elected officials from joining the Senior Management Services Class, effective January 1, 2014.

The bill does not impact the ability of any current FRS enrollee to select participation in the pension plan or the investment plan. Changes included in the bill only pertain to new enrollees initially enrolled in the system on or after January 1, 2014.

The bill provides that a proper and legitimate state purpose is served, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

Based on the results of a special actuarial study performed by the Milliman actuarial and consulting firm, dated March 1, 2013, the bill does not have a fiscal impact on state or local governments for fiscal year 2013-14. However, it has a projected negative fiscal impact in fiscal year 2014-15 (negative \$335,000 in General Revenue and negative \$2.7 million for all participating entities). In fiscal year 2016-17, the bill has a positive fiscal impact (\$9.5 million in General Revenue and \$12.9 million for all participating entities). The savings continue to increase each year over the period covered by the study. See Fiscal Comments section for further discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.¹ The FRS is a contributory system, with all members contributing 3 percent of their salaries.²

The FRS is governed by the Florida Retirement System Act.³ The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to 623,011 active members,⁴ 334,682 retired members and beneficiaries, and 40,556 members of the Deferred Retirement Option Program.⁵ It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 185 cities and 257 independent hospitals and special districts that have elected to join the system.⁶

The membership of the FRS is divided into five membership classes:⁷

- Regular Class⁸ consists of 543,195 members (87 percent of the membership);
- Special Risk Class⁹ includes 70,005 members (11.2 percent);
- Special Risk Administrative Support Class¹⁰ has 59 members (.009 percent);
- Elected Officers' Class¹¹ has 2,206 members (0.35 percent); and
- Senior Management Service Class¹² has 7,546 members (1.21 percent).

Each class is funded separately based upon the costs attributable to the members of that class.

¹ *The Florida Retirement System Annual Report*, July 1, 2010 – June 30, 2011, at 38. A copy of the report can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/system_information/annual_reports.

² Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

³ Chapter 121, F.S.

⁴ As of June 30, 2012, the FRS defined benefit plan, also known as the pension plan, had 517,756 members, and the defined contribution plan, also known as the investment plan, had 105,255 members. Email from staff of the Division of Retirement, Department of Management Services, October 16, 2012 (on file with the Government Operations Subcommittee).

⁵ *Id.*

⁶ Florida Retirement System Participating Employers for Plan Year 2012-13, prepared by the Department of Management Services, Division of Retirement, Revised September 2012, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/human_resource_support/retirement/publications/informational_booklets.

⁷ *Florida Retirement System*, Department of Management Services PowerPoint Presentation before the Government Operations Subcommittee, January 16, 2013 (on file with the Government Operations Subcommittee).

⁸ The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

⁹ The Special Risk Class is for members employed as: law enforcement officers, firefighters, correctional officers, probation officers, paramedics and emergency technicians, among others. Section 121.0515, F.S.

¹⁰ The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the Florida Retirement System. Section 121.0515(8), F.S.

¹¹ The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

¹² The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. The earliest that any member could participate in the investment plan was July 1, 2002.

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the investment plan.¹³ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.¹⁴ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.¹⁵ The investment plan also provides disability coverage for both in-line-of-duty and regular disability retirement benefits.¹⁶ An FRS member who qualifies for disability while enrolled in the investment plan must apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.¹⁷

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.¹⁸ The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.¹⁹

Pension Plan

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.²⁰ Investment management is handled by the State Board of Administration.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.²¹ For members enrolled on or after July 1, 2011, the member vests in the pension plan after eight years of creditable service.²² Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final

¹³ Section 121.4501(6)(a), F.S.

¹⁴ If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

¹⁵ Section 121.591, F.S.

¹⁶ See s. 121.4501(16), F.S.

¹⁷ Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability, compensate an in-line-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁸ Section 121.4501(8), F.S.

¹⁹ Section 4, Art. IV, Fla. Const.

²⁰ Section 121.025, F.S.

²¹ Section 121.021(45)(a), F.S.

²² Section 121.021(45)(b), F.S.

compensation.²³ For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.²⁴ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.²⁵ Members initially enrolled in the pension plan on or after July 1, 2011, have longer vesting requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk Classes must complete 30 years of service or attain age 60.²⁶

Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;²⁷
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;²⁸ and
- Members of a Florida college may elect to enroll in the State Community College System Optional Retirement Program.²⁹

Contribution Rates

FRS employers are responsible for contributing a set percentage of the member’s monthly compensation to the Division of Retirement to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.³⁰ The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class:³¹

Membership Class	Effective July 1, 2012
Regular Class	3.55%
Special Risk Class	11.01%
Special Risk Administrative Support Class	3.94%
Elected Officer’s Support Class <ul style="list-style-type: none"> • Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders • Justices and Judges • County Officers 	6.51%
Senior Management Service Class	10.02%
	8.36%
	4.84%

²³ Section 121.091, F.S.

²⁴ Section 121.021(29)(a)1., F.S.

²⁵ Section 121.021(29)(b)1., F.S.

²⁶ Sections 121.021(29)(a)2. and (b)2., F.S.

²⁷ The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

²⁸ Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

²⁹ If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

³⁰ Section 121.70(1), F.S.

³¹ Section 121.71(4), F.S.

Regardless of employee class, all employees contribute 3 percent of their compensation towards retirement.³²

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.³³

Effect of the Bill

The bill makes changes to the FRS; however, benefits already earned are not impacted by changes in this bill. In addition, employees who are initially enrolled in the FRS before January 1, 2014, will not have their retirement choices impacted.

Effective January 1, 2014, the bill:

- Closes the pension plan (defined benefit) to new enrollees, and requires all new enrollees to participate in the investment plan (defined contribution);
- Eliminates the option for new enrollees to apply for disability benefits;
- Expands the investment options available to investment plan members;
- Closes the Senior Management Service Optional Annuity Program to new participants;
- Prohibits elected officials from joining the Senior Management Service Class in lieu of participation in the Elected Officers' Class; and
- Adjusts the employer contribution rates for several retirement classes as necessitated by the changes to the plan. The adjustments are nominal and should result in an insignificant fiscal impact.

Closing the Pension Plan

The bill provides that new enrollees in the FRS will be compulsory members of the investment plan. Enrollees initially enrolled in the system before January 1, 2014, will continue to have a choice between the two primary plans, but members enrolled on or after January 1, 2014, will be automatically enrolled into the investment plan.

Except for members who are eligible for an optional retirement plan, or eligible to withdraw from the FRS, all other new members will be compulsory members of the investment plan.

Disability Benefits

The bill provides that members of the FRS, who initially enroll on or after January 1, 2014, will not be eligible for disability benefits.

Investment Options

The bill directs the State Board of Administration (SBA) to create investment products that will be offered to participants in the investment plan. In addition, the SBA is directed to contract for employee-directed brokerage services to be offered to increase investment plan investment options. The bill provides criteria for the SBA to consider when selecting the provider of the brokerage services, requirements for the provider, as well as minimum investment requirements for participation in the brokerage account.

Optional Retirement Programs

The bill closes the Senior Management Service Optional Annuity Program to new members on January 1, 2014. Any member may elect to participate in the annuity program before January 1, 2014, and

³² Section 121.71(3), F.S.

³³ See ss. 121.4503 and 121.72(1), F.S.

members currently enrolled in the annuity program may continue to participate in that program. However, no new members may join the program on or after January 1, 2014.

The bill provides that an employee who has elected to participate in the State Community College System Optional Retirement Program may elect to withdraw from the optional retirement program and transfer to the FRS before December 31, 2013. After that date, an employee who elects to participate in the State Community College System Optional Retirement Program may not transfer out of the optional retirement program. As a result, the bill makes the employee's election to participate in this optional program irrevocable on and after January 1, 2014.

The bill provides that new enrollees who are eligible for the State University System Optional Retirement Program will default to the FRS Investment Plan on and after January 1, 2014 if the member does not elect to participate in the optional retirement program. Currently, the member defaults into the pension plan.

Elected Officials

The bill prohibits elected officials from joining the Senior Management Service Class in lieu of participating in the Elected Officers' Class. Because the Senior Management Service Optional Annuity Program will not be offered on or after January 1, 2014, elected officers will no longer be able to switch service classes for the purpose of participating in the optional annuity program. Instead, elected officials can participate in the FRS or withdraw from the system.³⁴

Miscellaneous Provisions

The bill provides a statement of important state interest. It also directs the State Board of Administration and the Department of Management Services to request a determination letter from the Federal Internal Revenue Service (IRS) upon the bill becoming a law. If the IRS refuses to act on the request for a determination letter, a legal opinion from a tax attorney can be substituted.

The bill also provides that if any portion of the bill would cause the FRS to be disqualified for tax purposes under the Internal Revenue Code, then that portion of the bill would not apply. The State Board of Administration and the Department of Management Services must notify the Legislature if any portion of the bill cannot be implemented.

B. SECTION DIRECTORY:

Section 1 amends s. 121.051, F.S., limiting the ability of members of the State Community College System Optional Retirement Program to transfer to the FRS; providing for compulsory membership in the FRS Investment Plan for employees initially enrolled after a specified date; authorizing certain employees to participate in the investment plan.

Section 2 amends s. 121.052, F.S., prohibiting members of the Elected Officers' Class from joining the Senior Management Service Class after a specified date.

Section 3 amends s. 121.055, F.S., closing the Senior Management Service Optional Annuity Program to new members on a specified date and prohibiting an elected official eligible for membership in the Elected Officers' Class from enrolling in the Senior Management Service Class Optional Annuity Program.

Section 4 amends s. 121.35, F.S., providing that certain participants in the optional retirement program for the State University System have a choice between the optional retirement program and the FRS Investment Plan; providing for compulsory membership in the investment plan for certain employees.

Section 5 amends s. 121.4501, F.S., requiring certain employees initially enrolled in the FRS on or after a specified date to be compulsory members of the investment plan; providing for the transfer of certain

³⁴ Members of the Elected Officers' Class may withdraw from the FRS. Section 121.052(3), F.S.

contributions; revising a provision relating to acknowledgment of an employee's election to participate in the investment plan; requiring the SBA to develop investment products to be offered in the investment plan; requiring the SBA to provide a self-directed brokerage account as an investment option; providing self-directed brokerage account requirements; revising the education component; deleting the obligation of system employers to communicate the existence of both retirement plans; providing the state board and the provider of the self-directed brokerage account investment option with certain responsibilities; providing that the state board is not required to deliver certain information regarding the self-directed brokerage account; making conforming changes; removing unnecessary language; and providing that certain investment plan members are not entitled to disability benefits.

Section 6 amends s. 121.591, F.S., limiting disability benefits to eligible members.

Section 7 amends s. 238.072, F.S., conforming cross references.

Section 8 amends s. 413.051, F.S., conforming cross references.

Section 9 adjusts the employer contribution rates for certain classes for the Unfunded Actuarial Liability; directs the Division of Law Revision and Information to adjust the contribution rates accordingly.

Section 10 provides that the act fulfills an important state interest.

Section 11 requires the SBA and the Department of Management Services to request a determination letter from the United States Internal Revenue Service; providing for severability.

Section 12 provides an effective date of July 1, 2013, unless otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments Section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments Section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

An actuarial special study was performed by the Milliman actuarial and consulting firm through the Department of Management Services, at the request of the Speaker. The purpose of the study, dated March 1, 2013, was to determine the fiscal impact of requiring new enrollees to participate in the Investment Plan and prohibiting future enrollment in the Pension Plan, effective January 1, 2014. The study provided a comparison between closing the plan to new enrollees to continuing the current plan using the same assumptions in order to provide an equitable comparison.

Based on the results of the study, the fiscal impact for fiscal year 2013-2014 is insignificant and the projected savings/(costs) for select subsequent years is summarized in the table below (in millions \$).

<i>Employer Funded by State</i>	FY 2014-15		FY 2015-16		FY 2016-17		2023-24		2042-43	
	GR	TF	GR	TF	GR	TF	GR	TF	GR	TF
State	(0.3)	(0.3)	0.9	0.9	2.3	2.3	26.4	26.3	731.9	731.9
School Boards	(0.1)	-	7.1	-	15.3	-	136.6	-	3,758.9	-
State Universities	-	-	1.0	-	2.5	-	30.8	-	1,101.6	-
State Colleges	-	-	0.5	-	1.2	-	11.3	-	319.2	-
Total	(0.4)	(0.3)	9.5	0.9	21.3	2.3	205.1	26.3	5,911.6	731.9
<i>Employer Not Funded by State</i>										
Counties	(1.8)		1.9		5.4		79.8		2,698.3	
Cities/Other	(0.2)		0.6		1.6		16.4		490.8	
Grand Total	(2.4)	(0.3)	12.0	0.9	28.3	2.3	301.3	26.3	9,100.7	731.9

The actuarial study projects increasing savings for the 30 year period of the study. However, the actuary verbally confirmed that the rate of return would start experiencing increasing downward pressure starting after the 10th year, and other assumptions would start proving increasingly unreliable sometime between the 5th and 10th year. However, the rates produced by the comparative analysis to the current plan, using the same assumptions, yield the theoretical savings noted above.

Closing the Senior Management Service Class Optional Annuity Program to new participants will have an insignificant fiscal impact on the FRS.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18, of the State Constitution may apply because this bill requires cities and counties to spend money or take action that requires the expenditure of money. An exception to this provision applies in instances where the legislature finds that the bill fulfills an important state interest and when similarly situated persons are required to comply. This bill contains a statement indicating that the bill fulfills an important state interest and the bill applies to similarly situated persons (all employers who participate in the FRS) so it appears that this exception would apply.

Additionally, the Florida Constitution provides an exemption to the mandates provision for bills that have an insignificant fiscal impact. Traditionally, the Legislature interprets the term insignificant fiscal impact to mean an amount not greater than the average statewide population for the applicable fiscal year times ten cents. For the 2013-2014 fiscal year, this calculation would be approximately \$1.9 million. As indicated in the actuarial study above, this bill is expected to have a negative impact on

counties and cities of approximately \$2 million in the 2014-2015 fiscal year. However, in the 2015-2016 fiscal year, the bill will result in a positive fiscal impact on counties and cities of approximately \$2.5 million and in the 2016-2017 fiscal year, the bill will result in a positive fiscal impact on counties and cities of \$7 million.

2. Other:

Actuarial Requirements

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provide that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.³⁵ This "preservation of rights" provision³⁶ was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.³⁷ The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member, under the previous benefit structure, remain untouched and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member's retirement vest.³⁸

The Florida Supreme Court further held that the "preservation of rights" provision was not intended to bind future legislatures from prospectively altering benefits which accrue for future state service.³⁹ More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.⁴⁰

³⁵ Section 121.011(3)(d), F.S.

³⁶ The "preservation of rights" provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So.2d 1033, 1037 (Fla. 1981).

³⁷ *Id.* at 1035.

³⁸ *Id.* at 1036.

³⁹ *Id.* at 1037.

⁴⁰ *Rick Scott, et al. v. George Williams, et al.*, 2013 WL 173955 (Fla. 2013).

This bill does not change any benefits that a member earned prior to January 1, 2014. In fact, members enrolled in the FRS before January 1, 2014, should experience no change in the benefits available under the FRS. The bill only changes the FRS system for participants initially enrolling in the system on or after January 1, 2014.

B. RULE-MAKING AUTHORITY:

The constitutional separation of powers doctrine prevents the Legislature from delegating its constitutional duties. Because legislative power involves the exercise of policy-related discretion over the content of law, any discretion given an agency to implement a law must be "pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program."⁴¹ The bill grants rulemaking authority to the SBA to implement provisions of the bill and provides standards for such implementation.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Death and Disability Benefits

The Florida House of Representatives has requested the Department of Management Services to perform three actuarial studies to determine the fiscal impact on the state and other participating FRS employers associated with the following death or disability benefit options for investment plan participants as follows:

- Employees initially enrolled in the FRS on or after January 1, 2014, will not be eligible to elect to switch to the defined benefit plan for purposes of receiving a disability benefit. The department indicated the study will be completed by February 15, 2013. The study has been received and analyzed and results included in this analysis.
- Employees initially enrolled in the FRS on or after January 1, 2014, will be eligible to transfer to the pension plan for purposes of receiving a disability benefit in the same manner as provided in current law. The department indicated the study will be completed by March 8, 2013.
- Providing in-line-of-duty survivor benefits for all members of the investment plan. The department indicated the study will be completed by April 4, 2013.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 8, 2013, the Appropriations Committee adopted one amendment. The amendment made minor adjustments to certain employer contribution rates for the Florida Retirement System related to funding the Unfunded Actuarial Liability, as determined using Milliman's March 1, 2013, Special Study. The changes had an insignificant fiscal impact.

This analysis reflects the bill as amended.

⁴¹ *Askew v. Cross Key Waterways*, 372 So.2d 913, 925 (Fla. 1978).
STORAGE NAME: h7011b.SAC.DOCX
DATE: 3/12/2013

1 A bill to be entitled
 2 An act relating to the Florida Retirement System;
 3 amending s. 121.051, F.S.; limiting the ability of
 4 members of an optional retirement program to transfer
 5 to the Florida Retirement System; providing for
 6 compulsory membership in the Florida Retirement System
 7 Investment Plan for employees initially enrolled after
 8 a specified date; authorizing certain employees to
 9 participate in the investment plan; amending s.
 10 121.052, F.S.; prohibiting members of the Elected
 11 Officers' Class from joining the Senior Management
 12 Service Class after a specified date; amending s.
 13 121.055, F.S.; closing the Senior Management Service
 14 Optional Annuity Program to new members after a
 15 specified date; prohibiting an elected official
 16 eligible for membership in the Elected Officers' Class
 17 from enrolling in the Senior Management Service Class
 18 or in the Senior Management Service Optional Annuity
 19 Program; closing the Senior Management Service
 20 Optional Annuity Program to new members after a
 21 specified date; amending s. 121.35, F.S.; providing
 22 that certain participants in the optional retirement
 23 program for the State University System have a choice
 24 between the optional retirement program and the
 25 Florida Retirement System Investment Plan; providing
 26 for compulsory membership in the investment plan for
 27 certain employees; amending s. 121.4501, F.S.;
 28 requiring certain employees initially enrolled in the

29 Florida Retirement System on or after a specified date
 30 to be compulsory members of the investment plan;
 31 providing for the transfer of certain contributions;
 32 revising a provision relating to acknowledgment of an
 33 employee's election to participate in the investment
 34 plan; requiring the State Board of Administration to
 35 develop investment products to be offered in the
 36 investment plan; requiring the State Board of
 37 Administration to provide a self-directed brokerage
 38 account as an investment option; requiring the state
 39 board to contract with a provider to provide a self-
 40 directed brokerage account investment option;
 41 providing self-directed brokerage account
 42 requirements; revising the education component;
 43 deleting the obligation of system employers to
 44 communicate the existence of both retirement plans;
 45 providing the state board and the provider of the
 46 self-directed brokerage account investment option with
 47 certain responsibilities; providing that the state
 48 board is not required to deliver certain information
 49 regarding the self-directed brokerage account; making
 50 conforming changes; removing unnecessary language;
 51 providing that certain investment plan members are not
 52 entitled to disability benefits; amending s. 121.591,
 53 F.S.; limiting disability benefits to eligible
 54 members; amending ss. 238.072 and 413.051, F.S.;

55 conforming cross-references; adjusting the required
 56 employer contribution rates for the unfunded actuarial

57 liability of the Florida Retirement System for select
 58 classes; providing a directive to the Division of Law
 59 Revision and Information; providing that the act
 60 fulfills an important state interest; requiring the
 61 State Board of Administration and the Department of
 62 Management Services to request a determination letter
 63 from the Internal Revenue Service; providing effective
 64 dates.

65

66 Be It Enacted by the Legislature of the State of Florida:

67

68 Section 1. Paragraph (c) of subsection (2) of section
 69 121.051, Florida Statutes, is amended, subsections (3) through
 70 (9) of that section are renumbered as subsections (4) through
 71 (10), respectively, and a new subsection (3) is added to that
 72 section, to read:

73 121.051 Participation in the system.—

74 (2) OPTIONAL PARTICIPATION.—

75 (c) Employees of public community colleges or charter
 76 technical career centers sponsored by public community colleges,
 77 designated in s. 1000.21(3), who are members of the Regular
 78 Class of the Florida Retirement System and who comply with the
 79 criteria set forth in this paragraph and s. 1012.875 may, in
 80 lieu of participating in the Florida Retirement System, elect to
 81 withdraw from the system altogether and participate in the State
 82 Community College System Optional Retirement Program provided by
 83 the employing agency under s. 1012.875.

84 1.a. Through June 30, 2001, the cost to the employer for

85 benefits under the optional retirement program equals the normal
 86 cost portion of the employer retirement contribution which would
 87 be required if the employee were a member of the pension plan's
 88 Regular Class, plus the portion of the contribution rate
 89 required by s. 112.363(8) which would otherwise be assigned to
 90 the Retiree Health Insurance Subsidy Trust Fund.

91 b. Effective July 1, 2001, through June 30, 2011, each
 92 employer shall contribute on behalf of each member of the
 93 optional program an amount equal to 10.43 percent of the
 94 employee's gross monthly compensation. The employer shall deduct
 95 an amount for the administration of the program.

96 c. Effective July 1, 2011, through June 30, 2012, each
 97 member shall contribute an amount equal to the employee
 98 contribution required under s. 121.71(3). The employer shall
 99 contribute on behalf of each program member an amount equal to
 100 the difference between 10.43 percent of the employee's gross
 101 monthly compensation and the employee's required contribution
 102 based on the employee's gross monthly compensation.

103 d. Effective July 1, 2012, each member shall contribute an
 104 amount equal to the employee contribution required under s.
 105 121.71(3). The employer shall contribute on behalf of each
 106 program member an amount equal to the difference between 8.15
 107 percent of the employee's gross monthly compensation and the
 108 employee's required contribution based on the employee's gross
 109 monthly compensation.

110 e. The employer shall contribute an additional amount to
 111 the Florida Retirement System Trust Fund equal to the unfunded
 112 actuarial accrued liability portion of the Regular Class

113 contribution rate.

114 2. The decision to participate in the optional retirement
115 program is irrevocable as long as the employee holds a position
116 eligible for participation, except as provided in subparagraph

117 3. Any service creditable under the Florida Retirement System is
118 retained after the member withdraws from the system; however,
119 additional service credit in the system may not be earned while
120 a member of the optional retirement program.

121 3. Effective July 1, 2003, through December 31, 2013, an
122 employee who has elected to participate in the optional
123 retirement program shall have one opportunity, at the employee's
124 discretion, to transfer from the optional retirement program to
125 the pension plan of the Florida Retirement System or to the
126 investment plan established under part II of this chapter,
127 subject to the terms of the applicable optional retirement
128 program contracts. Except as provided in subsection (3), an
129 employee participating in the optional retirement program on or
130 after January 1, 2014, is not eligible to transfer to the
131 Florida Retirement System.

132 a. If the employee chooses to move to the investment plan,
133 any contributions, interest, and earnings creditable to the
134 employee under the optional retirement program are retained by
135 the employee in the optional retirement program, and the
136 applicable provisions of s. 121.4501(4) govern the election.

137 b. If the employee chooses to move to the pension plan of
138 the Florida Retirement System, the employee shall receive
139 service credit equal to his or her years of service under the
140 optional retirement program.

141 (I) The cost for such credit is the amount representing
 142 the present value of the employee's accumulated benefit
 143 obligation for the affected period of service. The cost shall be
 144 calculated as if the benefit commencement occurs on the first
 145 date the employee becomes eligible for unreduced benefits, using
 146 the discount rate and other relevant actuarial assumptions that
 147 were used to value the Florida Retirement System Pension Plan
 148 liabilities in the most recent actuarial valuation. The
 149 calculation must include any service already maintained under
 150 the pension plan in addition to the years under the optional
 151 retirement program. The present value of any service already
 152 maintained must be applied as a credit to total cost resulting
 153 from the calculation. The division must ensure that the transfer
 154 sum is prepared using a formula and methodology certified by an
 155 enrolled actuary.

156 (II) The employee must transfer from his or her optional
 157 retirement program account and from other employee moneys as
 158 necessary, a sum representing the present value of the
 159 employee's accumulated benefit obligation immediately following
 160 the time of such movement, determined assuming that attained
 161 service equals the sum of service in the pension plan and
 162 service in the optional retirement program.

163 4. Participation in the optional retirement program is
 164 limited to employees who satisfy the following eligibility
 165 criteria:

166 a. The employee is otherwise eligible for membership or
 167 renewed membership in the Regular Class of the Florida
 168 Retirement System, as provided in s. 121.021(11) and (12) or s.

169 121.122.

170 b. The employee is employed in a full-time position
 171 classified in the Accounting Manual for Florida's Public
 172 Community Colleges as:

173 (I) Instructional; or

174 (II) Executive Management, Instructional Management, or
 175 Institutional Management and the community college determines
 176 that recruiting to fill a vacancy in the position is to be
 177 conducted in the national or regional market, and the duties and
 178 responsibilities of the position include the formulation,
 179 interpretation, or implementation of policies, or the
 180 performance of functions that are unique or specialized within
 181 higher education and that frequently support the mission of the
 182 community college.

183 c. The employee is employed in a position not included in
 184 the Senior Management Service Class of the Florida Retirement
 185 System as described in s. 121.055.

186 5. Members of the program are subject to the same
 187 reemployment limitations, renewed membership provisions, and
 188 forfeiture provisions applicable to regular members of the
 189 Florida Retirement System under ss. 121.091(9), 121.122, and
 190 121.091(5), respectively. A member who receives a program
 191 distribution funded by employer and required employee
 192 contributions is deemed to be retired from a state-administered
 193 retirement system if the member is subsequently employed with an
 194 employer that participates in the Florida Retirement System.

195 6. Eligible community college employees are compulsory
 196 members of the Florida Retirement System until, pursuant to s.

197 1012.875, a written election to withdraw from the system and
 198 participate in the optional retirement program is filed with the
 199 program administrator and received by the division.

200 a. A community college employee whose program eligibility
 201 results from initial employment shall be enrolled in the
 202 optional retirement program retroactive to the first day of
 203 eligible employment. The employer and employee retirement
 204 contributions paid through the month of the employee plan change
 205 shall be transferred to the community college to the employee's
 206 optional program account, and, effective the first day of the
 207 next month, the employer shall pay the applicable contributions
 208 based upon subparagraph 1.

209 b. A community college employee whose program eligibility
 210 is due to the subsequent designation of the employee's position
 211 as one of those specified in subparagraph 4., or due to the
 212 employee's appointment, promotion, transfer, or reclassification
 213 to a position specified in subparagraph 4., must be enrolled in
 214 the program on the first day of the first full calendar month
 215 that such change in status becomes effective. The employer and
 216 employee retirement contributions paid from the effective date
 217 through the month of the employee plan change must be
 218 transferred to the community college to the employee's optional
 219 program account, and, effective the first day of the next month,
 220 the employer shall pay the applicable contributions based upon
 221 subparagraph 1.

222 7. Effective July 1, 2003, through December 31, 2008, any
 223 member of the optional retirement program who has service credit
 224 in the pension plan of the Florida Retirement System for the

225 | period between his or her first eligibility to transfer from the
 226 | pension plan to the optional retirement program and the actual
 227 | date of transfer may, during employment, transfer to the
 228 | optional retirement program a sum representing the present value
 229 | of the accumulated benefit obligation under the defined benefit
 230 | retirement program for the period of service credit. Upon
 231 | transfer, all service credit previously earned under the pension
 232 | plan during this period is nullified for purposes of entitlement
 233 | to a future benefit under the pension plan.

234 | (3) INVESTMENT PLAN MEMBERSHIP COMPULSORY.-

235 | (a) All eligible employees, except those eligible to
 236 | withdraw from the system under s. 121.052(3)(d) or s.
 237 | 121.055(1)(b)2., or those eligible for optional retirement
 238 | programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
 239 | initially enrolled on or after January 1, 2014, are compulsory
 240 | members of the investment plan, and membership in the pension
 241 | plan is not permitted. Employees initially enrolled on or after
 242 | January 1, 2014, are not eligible to use the election
 243 | opportunity specified in s. 121.4501(4)(e).

244 | (b) Employees eligible to withdraw from the system under
 245 | s. 121.052(3)(d) or s. 121.055(1)(b)2., may choose to withdraw
 246 | from the system or to participate in the investment plan as
 247 | provided in those sections. Employees eligible for optional
 248 | retirement programs under s. 121.051(2)(c) or s. 121.35, may
 249 | choose to participate in the optional retirement program or the
 250 | investment plan as provided in those sections. Eligible
 251 | employees required to participate in the optional retirement
 252 | program under s. 121.35, pursuant to s. 121.051(1)(a), must

253 participate in the investment plan when employed in a position
 254 not eligible for the optional retirement program.

255 Section 2. Paragraph (c) of subsection (3) of section
 256 121.052, Florida Statutes, is amended to read:

257 121.052 Membership class of elected officers.—

258 (3) PARTICIPATION AND WITHDRAWAL, GENERALLY.—Effective
 259 July 1, 1990, participation in the Elected Officers' Class shall
 260 be compulsory for elected officers listed in paragraphs (2) (a)-
 261 (d) and (f) assuming office on or after said date, unless the
 262 elected officer elects membership in another class or withdraws
 263 from the Florida Retirement System as provided in paragraphs
 264 (3) (a)-(d):

265 (c) Before January 1, 2014, any elected officer may,
 266 within 6 months after assuming office, or within 6 months after
 267 this act becomes a law for serving elected officers, elect
 268 membership in the Senior Management Service Class as provided in
 269 s. 121.055 in lieu of membership in the Elected Officers' Class.
 270 Any such election made by a county elected officer shall have no
 271 effect upon the statutory limit on the number of nonelective
 272 full-time positions that may be designated by a local agency
 273 employer for inclusion in the Senior Management Service Class
 274 under s. 121.055(1) (b)1.

275 Section 3. Paragraph (f) of subsection (1) and paragraph
 276 (c) of subsection (6) of section 121.055, Florida Statutes, are
 277 amended to read:

278 121.055 Senior Management Service Class.—There is hereby
 279 established a separate class of membership within the Florida
 280 Retirement System to be known as the "Senior Management Service

281 Class," which shall become effective February 1, 1987.

282 (1)

283 (f) Effective July 1, 1997, through December 31, 2013:

284 1. Except as provided in subparagraphs ~~subparagraph~~ 3. and
 285 4., an elected state officer eligible for membership in the
 286 Elected Officers' Class under s. 121.052(2)(a), (b), or (c) who
 287 elects membership in the Senior Management Service Class under
 288 s. 121.052(3)(c) may, within 6 months after assuming office or
 289 within 6 months after this act becomes a law for serving elected
 290 state officers, elect to participate in the Senior Management
 291 Service Optional Annuity Program, as provided in subsection (6),
 292 in lieu of membership in the Senior Management Service Class.

293 2. Except as provided in subparagraphs ~~subparagraph~~ 3. and
 294 4., an elected officer of a local agency employer eligible for
 295 membership in the Elected Officers' Class under s. 121.052(2)(d)
 296 who elects membership in the Senior Management Service Class
 297 under s. 121.052(3)(c) may, within 6 months after assuming
 298 office, or within 6 months after this act becomes a law for
 299 serving elected officers of a local agency employer, elect to
 300 withdraw from the Florida Retirement System, as provided in
 301 subparagraph (b)2., in lieu of membership in the Senior
 302 Management Service Class.

303 3. A retiree of a state-administered retirement system who
 304 is initially reemployed in a regularly established position on
 305 or after July 1, 2010, as an elected official eligible for the
 306 Elected Officers' Class may not be enrolled in renewed
 307 membership in the Senior Management Service Class or in the
 308 Senior Management Service Optional Annuity Program as provided

309 in subsection (6), and may not withdraw from the Florida
 310 Retirement System as a renewed member as provided in
 311 subparagraph (b)2., as applicable, in lieu of membership in the
 312 Senior Management Service Class.

313 4. On or after January 1, 2014, an elected official
 314 eligible for membership in the Elected Officers' Class may not
 315 be enrolled in the Senior Management Service Class or in the
 316 Senior Management Service Optional Annuity Program as provided
 317 in subsection (6).

318 (6)

319 (c) Participation.—

320 1. An eligible employee who is employed on or before
 321 February 1, 1987, may elect to participate in the optional
 322 annuity program in lieu of participating in the Senior
 323 Management Service Class. Such election must be made in writing
 324 and filed with the department and the personnel officer of the
 325 employer on or before May 1, 1987. An eligible employee who is
 326 employed on or before February 1, 1987, and who fails to make an
 327 election to participate in the optional annuity program by May
 328 1, 1987, shall be deemed to have elected membership in the
 329 Senior Management Service Class.

330 2. Except as provided in subparagraph 6., an employee who
 331 becomes eligible to participate in the optional annuity program
 332 by reason of initial employment commencing after February 1,
 333 1987, may, within 90 days after the date of commencing
 334 employment, elect to participate in the optional annuity
 335 program. Such election must be made in writing and filed with
 336 the personnel officer of the employer. An eligible employee who

337 does not within 90 days after commencing employment elect to
 338 participate in the optional annuity program shall be deemed to
 339 have elected membership in the Senior Management Service Class.

340 3. A person who is appointed to a position in the Senior
 341 Management Service Class and who is a member of an existing
 342 retirement system or the Special Risk or Special Risk
 343 Administrative Support Classes of the Florida Retirement System
 344 may elect to remain in such system or class in lieu of
 345 participating in the Senior Management Service Class or optional
 346 annuity program. Such election must be made in writing and filed
 347 with the department and the personnel officer of the employer
 348 within 90 days after such appointment. An eligible employee who
 349 fails to make an election to participate in the existing system,
 350 the Special Risk Class of the Florida Retirement System, the
 351 Special Risk Administrative Support Class of the Florida
 352 Retirement System, or the optional annuity program shall be
 353 deemed to have elected membership in the Senior Management
 354 Service Class.

355 4. Except as provided in subparagraph 5., an employee's
 356 election to participate in the optional annuity program is
 357 irrevocable if the employee continues to be employed in an
 358 eligible position and continues to meet the eligibility
 359 requirements set forth in this paragraph.

360 5. Effective from July 1, 2002, through September 30,
 361 2002, an active employee in a regularly established position who
 362 has elected to participate in the Senior Management Service
 363 Optional Annuity Program has one opportunity to choose to move
 364 from the Senior Management Service Optional Annuity Program to

365 the Florida Retirement System Pension Plan.

366 a. The election must be made in writing and must be filed
 367 with the department and the personnel officer of the employer
 368 before October 1, 2002, or, in the case of an active employee
 369 who is on a leave of absence on July 1, 2002, within 90 days
 370 after the conclusion of the leave of absence. This election is
 371 irrevocable.

372 b. The employee shall receive service credit under the
 373 pension plan equal to his or her years of service under the
 374 Senior Management Service Optional Annuity Program. The cost for
 375 such credit is the amount representing the present value of that
 376 employee's accumulated benefit obligation for the affected
 377 period of service.

378 c. The employee must transfer the total accumulated
 379 employer contributions and earnings on deposit in his or her
 380 Senior Management Service Optional Annuity Program account. If
 381 the transferred amount is not sufficient to pay the amount due,
 382 the employee must pay a sum representing the remainder of the
 383 amount due. The employee may not retain any employer
 384 contributions or earnings from the Senior Management Service
 385 Optional Annuity Program account.

386 6. A retiree of a state-administered retirement system who
 387 is initially reemployed on or after July 1, 2010, may not renew
 388 membership in the Senior Management Service Optional Annuity
 389 Program.

390 7. Effective January 1, 2014, the Senior Management
 391 Service Optional Annuity Program is closed to new members.
 392 Members enrolled in the Senior Management Service Optional

393 Annuity Program before January 1, 2014, may retain their
 394 membership in the annuity program.

395 Section 4. Paragraph (c) of subsection (3) of section
 396 121.35, Florida Statutes, is amended to read:

397 121.35 Optional retirement program for the State
 398 University System.—

399 (3) ELECTION OF OPTIONAL PROGRAM.—

400 (c) Any employee who becomes eligible to participate in
 401 the optional retirement program on or after January 1, 1993,
 402 shall be a compulsory participant of the program unless such
 403 employee elects membership in the Florida Retirement System.
 404 Such election shall be made in writing and filed with the
 405 personnel officer of the employer. Any eligible employee who
 406 fails to make such election within the prescribed time period
 407 shall be deemed to have elected to participate in the optional
 408 retirement program.

409 1. Any employee whose optional retirement program
 410 eligibility results from initial employment shall be enrolled in
 411 the program at the commencement of employment. If, within 90
 412 days after commencement of employment, the employee elects
 413 membership in the Florida Retirement System, such membership
 414 shall be effective retroactive to the date of commencement of
 415 employment as provided in s. 121.4501(4).

416 2. Any employee whose optional retirement program
 417 eligibility results from a change in status due to the
 418 subsequent designation of the employee's position as one of
 419 those specified in paragraph (2)(a) or due to the employee's
 420 appointment, promotion, transfer, or reclassification to a

421 position specified in paragraph (2)(a) shall be enrolled in the
 422 optional retirement program upon such change in status and shall
 423 be notified by the employer of such action. If, within 90 days
 424 after the date of such notification, the employee elects to
 425 retain membership in the Florida Retirement System, such
 426 continuation of membership shall be retroactive to the date of
 427 the change in status.

428 3. Notwithstanding subparagraphs 1. and 2. ~~the provisions~~
 429 ~~of this paragraph~~, effective July 1, 1997, any employee who is
 430 eligible to participate in the Optional Retirement Program and
 431 who fails to execute a contract with one of the approved
 432 companies and to notify the department in writing as provided in
 433 subsection (4) within 90 days after the date of eligibility
 434 shall be deemed to have elected membership in the Florida
 435 Retirement System, except as provided in s. 121.051(1)(a). This
 436 provision shall also apply to any employee who terminates
 437 employment in an eligible position before executing the required
 438 investment annuity contract and notifying the department. Such
 439 membership shall be retroactive to the date of eligibility, and
 440 all appropriate contributions shall be transferred to the
 441 Florida Retirement System Trust Fund and the Health Insurance
 442 Subsidy Trust Fund. If a member is initially enrolled on or
 443 after January 1, 2014, the member is deemed to have elected
 444 membership in the Florida Retirement System Investment Plan and
 445 such membership shall be retroactive to the date of eligibility.
 446 All contributions required under s. 121.72, shall be transferred
 447 to a default fund in the investment plan as provided in s.
 448 121.4501(4)(f), and the Health Insurance Subsidy Trust Fund.

449 Section 5. Subsections (1) and (4), paragraph (c) of
 450 subsection (5), subsection (8), paragraph (a) of subsection (9),
 451 paragraphs (a), (b), (c), and (h) of subsection (10), paragraphs
 452 (a) and (c) of subsection (15), and subsection (16) of section
 453 121.4501, Florida Statutes, are amended, and paragraph (h) is
 454 added to subsection (9) of that section, to read:

455 121.4501 Florida Retirement System Investment Plan.—
 456 (1) The Trustees of the State Board of Administration
 457 shall establish a defined contribution program called the
 458 "Florida Retirement System Investment Plan" or "investment plan"
 459 for members of the Florida Retirement System under which
 460 retirement benefits will be provided for eligible employees
 461 initially enrolled before January 1, 2014, who elect to
 462 participate in the program, and for all eligible employees
 463 initially enrolled on or after January 1, 2014, who shall be
 464 compulsory members unless otherwise eligible to withdraw from
 465 the system under s. 121.052(3)(d) or s. 121.055(1)(b)2., or to
 466 participate in an optional retirement program under s.
 467 121.051(1)(a), s. 121.051(2)(c), or s. 121.35. The retirement
 468 benefits shall be provided through member-directed investments,
 469 in accordance with s. 401(a) of the Internal Revenue Code and
 470 related regulations. The employer and employee shall make
 471 contributions, as provided in this section and ss. 121.571 and
 472 121.71, to the Florida Retirement System Investment Plan Trust
 473 Fund toward the funding of benefits.

474 (4) PARTICIPATION; ENROLLMENT.—
 475 (a)1. Effective June 1, 2002, through February 28, 2003, a
 476 90-day election period is provided to each eligible employee

477 participating in the Florida Retirement System, preceded by a
 478 90-day education period, permitting each eligible employee to
 479 elect membership in the investment plan, and an employee who
 480 fails to elect the investment plan during the election period
 481 remains in the pension plan. An eligible employee employed in a
 482 regularly established position during the election period is
 483 granted the option to make one subsequent election, as provided
 484 in paragraph (e). With respect to an eligible employee who does
 485 not participate in the initial election period or who is
 486 initially employed in a regularly established position after the
 487 close of the initial election period but before January 1, 2014,
 488 on June 1, 2002, by a state employer.

489 ~~a. Any such employee may elect to participate in the~~
 490 ~~investment plan in lieu of retaining his or her membership in~~
 491 ~~the pension plan. The election must be made in writing or by~~
 492 ~~electronic means and must be filed with the third-party~~
 493 ~~administrator by August 31, 2002, or, in the case of an active~~
 494 ~~employee who is on a leave of absence on April 1, 2002, by the~~
 495 ~~last business day of the 5th month following the month the leave~~
 496 ~~of absence concludes. This election is irrevocable, except as~~
 497 ~~provided in paragraph (g). Upon making such election, the~~
 498 ~~employee shall be enrolled as a member of the investment plan,~~
 499 ~~the employee's membership in the Florida Retirement System is~~
 500 ~~governed by the provisions of this part, and the employee's~~
 501 ~~membership in the pension plan terminates. The employee's~~
 502 ~~enrollment in the investment plan is effective the first day of~~
 503 ~~the month for which a full month's employer contribution is made~~
 504 ~~to the investment plan.~~

505 ~~b. Any such employee who fails to elect to participate in~~
 506 ~~the investment plan within the prescribed time period is deemed~~
 507 ~~to have elected to retain membership in the pension plan, and~~
 508 ~~the employee's option to elect to participate in the investment~~
 509 ~~plan is forfeited.~~

510 ~~2. With respect to employees who become eligible to~~
 511 ~~participate in the investment plan by reason of employment in a~~
 512 ~~regularly established position with a state employer commencing~~
 513 ~~after April 1, 2002:~~

514 ~~a. Any such employee shall, by default, be enrolled in the~~
 515 ~~pension plan at the commencement of employment, and may, by the~~
 516 ~~last business day of the 5th month following the employee's~~
 517 ~~month of hire, elect to participate in the investment plan. The~~
 518 ~~employee's election must be made in writing or by electronic~~
 519 ~~means and must be filed with the third-party administrator. The~~
 520 ~~election to participate in the investment plan is irrevocable,~~
 521 ~~except as provided in paragraph (e) ~~(g)~~.~~

522 ~~a.b.~~ If the employee files such election within the
 523 prescribed time period, enrollment in the investment plan is
 524 effective on the first day of employment. The retirement
 525 contributions paid through the month of the employee plan change
 526 shall be transferred to the investment program, and, effective
 527 the first day of the next month, the employer and employee must
 528 pay the applicable contributions based on the employee
 529 membership class in the program.

530 ~~b.e.~~ An employee who fails to elect to participate in the
 531 investment plan within the prescribed time period is deemed to
 532 have elected to retain membership in the pension plan, and the

533 employee's option to elect to participate in the investment plan
 534 is forfeited.

535 ~~2.3.~~ With respect to employees who become eligible to
 536 participate in the investment plan pursuant to s.
 537 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to
 538 participate in the investment plan in lieu of retaining his or
 539 her membership in the State Community College System Optional
 540 Retirement Program or the State University System Optional
 541 Retirement Program. The election must be made in writing or by
 542 electronic means and must be filed with the third-party
 543 administrator. This election is irrevocable, except as provided
 544 in paragraph ~~(e)~~~~(g)~~. Upon making such election, the employee
 545 shall be enrolled as a member in the investment plan, the
 546 employee's membership in the Florida Retirement System is
 547 governed by the provisions of this part, and the employee's
 548 participation in the State Community College System Optional
 549 Retirement Program or the State University System Optional
 550 Retirement Program terminates. The employee's enrollment in the
 551 investment plan is effective on the first day of the month for
 552 which a full month's employer and employee contribution is made
 553 to the investment plan.

554 ~~4. For purposes of this paragraph, "state employer" means~~
 555 ~~any agency, board, branch, commission, community college,~~
 556 ~~department, institution, institution of higher education, or~~
 557 ~~water management district of the state, which participates in~~
 558 ~~the Florida Retirement System for the benefit of certain~~
 559 ~~employees.~~

560 ~~(b)1. With respect to an eligible employee who is employed~~

561 ~~in a regularly established position on September 1, 2002, by a~~
 562 ~~district school board employer:~~

563 ~~a. Any such employee may elect to participate in the~~
 564 ~~investment plan in lieu of retaining his or her membership in~~
 565 ~~the pension plan. The election must be made in writing or by~~
 566 ~~electronic means and must be filed with the third-party~~
 567 ~~administrator by November 30, or, in the case of an active~~
 568 ~~employee who is on a leave of absence on July 1, 2002, by the~~
 569 ~~last business day of the 5th month following the month the leave~~
 570 ~~of absence concludes. This election is irrevocable, except as~~
 571 ~~provided in paragraph (g). Upon making such election, the~~
 572 ~~employee shall be enrolled as a member of the investment plan,~~
 573 ~~the employee's membership in the Florida Retirement System is~~
 574 ~~governed by the provisions of this part, and the employee's~~
 575 ~~membership in the pension plan terminates. The employee's~~
 576 ~~enrollment in the investment plan is effective the first day of~~
 577 ~~the month for which a full month's employer contribution is made~~
 578 ~~to the investment program.~~

579 ~~b. Any such employee who fails to elect to participate in~~
 580 ~~the investment plan within the prescribed time period is deemed~~
 581 ~~to have elected to retain membership in the pension plan, and~~
 582 ~~the employee's option to elect to participate in the investment~~
 583 ~~plan is forfeited.~~

584 ~~2. With respect to employees who become eligible to~~
 585 ~~participate in the investment plan by reason of employment in a~~
 586 ~~regularly established position with a district school board~~
 587 ~~employer commencing after July 1, 2002:~~

588 ~~a. Any such employee shall, by default, be enrolled in the~~

589 ~~pension plan at the commencement of employment, and may, by the~~
 590 ~~last business day of the 5th month following the employee's~~
 591 ~~month of hire, elect to participate in the investment plan. The~~
 592 ~~employee's election must be made in writing or by electronic~~
 593 ~~means and must be filed with the third-party administrator. The~~
 594 ~~election to participate in the investment plan is irrevocable,~~
 595 ~~except as provided in paragraph (g).~~

596 ~~b. If the employee files such election within the~~
 597 ~~prescribed time period, enrollment in the investment plan is~~
 598 ~~effective on the first day of employment. The employer~~
 599 ~~retirement contributions paid through the month of the employee~~
 600 ~~plan change shall be transferred to the investment plan, and,~~
 601 ~~effective the first day of the next month, the employer shall~~
 602 ~~pay the applicable contributions based on the employee~~
 603 ~~membership class in the investment plan.~~

604 ~~e. Any such employee who fails to elect to participate in~~
 605 ~~the investment plan within the prescribed time period is deemed~~
 606 ~~to have elected to retain membership in the pension plan, and~~
 607 ~~the employee's option to elect to participate in the investment~~
 608 ~~plan is forfeited.~~

609 ~~3. For purposes of this paragraph, "district school board~~
 610 ~~employer" means any district school board that participates in~~
 611 ~~the Florida Retirement System for the benefit of certain~~
 612 ~~employees, or a charter school or charter technical career~~
 613 ~~center that participates in the Florida Retirement System as~~
 614 ~~provided in s. 121.051(2)(d).~~

615 ~~(c)1. With respect to an eligible employee who is employed~~
 616 ~~in a regularly established position on December 1, 2002, by a~~

617 ~~local employer:~~

618 a. ~~Any such employee may elect to participate in the~~
 619 ~~investment plan in lieu of retaining his or her membership in~~
 620 ~~the pension plan. The election must be made in writing or by~~
 621 ~~electronic means and must be filed with the third-party~~
 622 ~~administrator by February 28, 2003, or, in the case of an active~~
 623 ~~employee who is on a leave of absence on October 1, 2002, by the~~
 624 ~~last business day of the 5th month following the month the leave~~
 625 ~~of absence concludes. This election is irrevocable, except as~~
 626 ~~provided in paragraph (g). Upon making such election, the~~
 627 ~~employee shall be enrolled as a participant of the investment~~
 628 ~~plan, the employee's membership in the Florida Retirement System~~
 629 ~~is governed by the provisions of this part, and the employee's~~
 630 ~~membership in the pension plan terminates. The employee's~~
 631 ~~enrollment in the investment plan is effective the first day of~~
 632 ~~the month for which a full month's employer contribution is made~~
 633 ~~to the investment plan.~~

634 b. ~~Any such employee who fails to elect to participate in~~
 635 ~~the investment plan within the prescribed time period is deemed~~
 636 ~~to have elected to retain membership in the pension plan, and~~
 637 ~~the employee's option to elect to participate in the investment~~
 638 ~~plan is forfeited.~~

639 2. ~~With respect to employees who become eligible to~~
 640 ~~participate in the investment plan by reason of employment in a~~
 641 ~~regularly established position with a local employer commencing~~
 642 ~~after October 1, 2002:~~

643 a. ~~Any such employee shall, by default, be enrolled in the~~
 644 ~~pension plan at the commencement of employment, and may, by the~~

645 ~~last business day of the 5th month following the employee's~~
 646 ~~month of hire, elect to participate in the investment plan. The~~
 647 ~~employee's election must be made in writing or by electronic~~
 648 ~~means and must be filed with the third party administrator. The~~
 649 ~~election to participate in the investment plan is irrevocable,~~
 650 ~~except as provided in paragraph (g).~~

651 ~~b. If the employee files such election within the~~
 652 ~~prescribed time period, enrollment in the investment plan is~~
 653 ~~effective on the first day of employment. The employer~~
 654 ~~retirement contributions paid through the month of the employee~~
 655 ~~plan change shall be transferred to the investment plan, and,~~
 656 ~~effective the first day of the next month, the employer shall~~
 657 ~~pay the applicable contributions based on the employee~~
 658 ~~membership class in the investment plan.~~

659 ~~e. Any such employee who fails to elect to participate in~~
 660 ~~the investment plan within the prescribed time period is deemed~~
 661 ~~to have elected to retain membership in the pension plan, and~~
 662 ~~the employee's option to elect to participate in the investment~~
 663 ~~plan is forfeited.~~

664 ~~3. For purposes of this paragraph, "local employer" means~~
 665 ~~any employer not included in paragraph (a) or paragraph (b).~~

666 (b) ~~(d)~~ Contributions available for self-direction by a
 667 member who has not selected one or more specific investment
 668 products shall be allocated as prescribed by the state board.
 669 The third-party administrator shall notify the member at least
 670 quarterly that the member should take an affirmative action to
 671 make an asset allocation among the investment products.

672 (c) ~~(e)~~ On or after July 1, 2011, a member of the pension

673 plan who obtains a refund of employee contributions retains his
 674 or her prior plan choice upon return to employment in a
 675 regularly established position with a participating employer.

676 (d)~~(f)~~ A member of the investment plan who takes a
 677 distribution of any contributions from his or her investment
 678 plan account is considered a retiree. A retiree who is initially
 679 reemployed in a regularly established position on or after July
 680 1, 2010, is not eligible to be enrolled in renewed membership.

681 (e)~~(g)~~ After the period during which an eligible employee
 682 initially enrolled before January 1, 2014, had the choice to
 683 elect the pension plan or the investment plan, or the month
 684 following the receipt of the eligible employee's plan election,
 685 if sooner, the employee shall have one opportunity, at the
 686 employee's discretion, to choose to move from the pension plan
 687 to the investment plan or from the investment plan to the
 688 pension plan. Eligible employees may elect to move between plans
 689 only if they are earning service credit in an employer-employee
 690 relationship consistent with s. 121.021(17)(b), excluding leaves
 691 of absence without pay. Effective July 1, 2005, such elections
 692 are effective on the first day of the month following the
 693 receipt of the election by the third-party administrator and are
 694 not subject to the requirements regarding an employer-employee
 695 relationship or receipt of contributions for the eligible
 696 employee in the effective month, except when the election is
 697 received by the third-party administrator. This paragraph is
 698 contingent upon approval by the Internal Revenue Service.

699 1. If the employee chooses to move to the investment plan,
 700 the provisions of subsection (3) govern the transfer.

701 2. If the employee chooses to move to the pension plan,
 702 the employee must transfer from his or her investment plan
 703 account, and from other employee moneys as necessary, a sum
 704 representing the present value of that employee's accumulated
 705 benefit obligation immediately following the time of such
 706 movement, determined assuming that attained service equals the
 707 sum of service in the pension plan and service in the investment
 708 plan. Benefit commencement occurs on the first date the employee
 709 is eligible for unreduced benefits, using the discount rate and
 710 other relevant actuarial assumptions that were used to value the
 711 pension plan liabilities in the most recent actuarial valuation.
 712 For any employee who, at the time of the second election,
 713 already maintains an accrued benefit amount in the pension plan,
 714 the then-present value of the accrued benefit is deemed part of
 715 the required transfer amount. The division must ensure that the
 716 transfer sum is prepared using a formula and methodology
 717 certified by an enrolled actuary. A refund of any employee
 718 contributions or additional member payments made which exceed
 719 the employee contributions that would have accrued had the
 720 member remained in the pension plan and not transferred to the
 721 investment plan is not permitted.

722 3. Notwithstanding subparagraph 2., an employee who
 723 chooses to move to the pension plan and who became eligible to
 724 participate in the investment plan by reason of employment in a
 725 regularly established position with a state employer after June
 726 1, 2002; a district school board employer after September 1,
 727 2002; or a local employer after December 1, 2002, must transfer
 728 from his or her investment plan account, and from other employee

729 moneys as necessary, a sum representing the employee's actuarial
 730 accrued liability. A refund of any employee contributions or
 731 additional member ~~participant~~ payments made which exceed the
 732 employee contributions that would have accrued had the member
 733 remained in the pension plan and not transferred to the
 734 investment plan is not permitted.

735 4. An employee's ability to transfer from the pension plan
 736 to the investment plan pursuant to paragraph (a) ~~paragraphs (a)-~~
 737 ~~(d)~~, and the ability of a current employee to have an option to
 738 later transfer back into the pension plan under subparagraph 2.,
 739 shall be deemed a significant system amendment. Pursuant to s.
 740 121.031(4), any resulting unfunded liability arising from actual
 741 original transfers from the pension plan to the investment plan
 742 must be amortized within 30 plan years as a separate unfunded
 743 actuarial base independent of the reserve stabilization
 744 mechanism defined in s. 121.031(3)(f). For the first 25 years, a
 745 direct amortization payment may not be calculated for this base.
 746 During this 25-year period, the separate base shall be used to
 747 offset the impact of employees exercising their second program
 748 election under this paragraph. The actuarial funded status of
 749 the pension plan will not be affected by such second program
 750 elections in any significant manner, after due recognition of
 751 the separate unfunded actuarial base. Following the initial 25-
 752 year period, any remaining balance of the original separate base
 753 shall be amortized over the remaining 5 years of the required
 754 30-year amortization period.

755 5. If the employee chooses to transfer from the investment
 756 plan to the pension plan and retains an excess account balance

757 in the investment plan after satisfying the buy-in requirements
 758 under this paragraph, the excess may not be distributed until
 759 the member retires from the pension plan. The excess account
 760 balance may be rolled over to the pension plan and used to
 761 purchase service credit or upgrade creditable service in the
 762 pension plan.

763 (f)1. All eligible employees, except those eligible to
 764 withdraw from the system under s. 121.052(3)(d) or s.
 765 121.055(1)(b)2., or those eligible for optional retirement
 766 programs under s. 121.051(1)(a), s. 121.051(2)(c), or s. 121.35,
 767 initially enrolled on or after January 1, 2014, are compulsory
 768 members of the investment plan. Employees eligible to withdraw
 769 from the system under s. 121.052(3)(d) or s. 121.055(1)(b)2.,
 770 may choose to withdraw from the system or to participate in the
 771 investment plan as provided in those sections. Employees
 772 eligible for optional retirement programs under s. 121.051(2)(c)
 773 or s. 121.35, except as provided in s. 121.051(1)(a), may choose
 774 to participate in the optional retirement program or the
 775 investment plan as provided in those sections. Membership in the
 776 pension plan is not permitted except as provided in s.
 777 121.591(2).

778 2. Employees initially enrolled on or after January 1,
 779 2014, are not permitted to use the election opportunity
 780 specified in paragraph (e).

781 3. The amount of retirement contributions paid by the
 782 employee and employer, as required under s. 121.72, shall be
 783 placed in a default fund as designated by the state board, until
 784 an account is activated in the investment plan, at which time

785 the member may move the contributions from the default fund to
 786 other funds provided in the investment plan.

787 (5) CONTRIBUTIONS.—

788 (c) The state board, acting as plan fiduciary, must ensure
 789 that all plan assets are held in a trust, pursuant to s. 401 of
 790 the Internal Revenue Code. The fiduciary must ensure that such
 791 contributions are allocated as follows:

792 1. The employer and employee contribution portion
 793 earmarked for member accounts shall be used to purchase
 794 interests in the appropriate investment vehicles as specified by
 795 the member, or in accordance with paragraph (4) (b) ~~(d)~~.

796 2. The employer contribution portion earmarked for
 797 administrative and educational expenses shall be transferred to
 798 the Florida Retirement System Investment Plan Trust Fund.

799 3. The employer contribution portion earmarked for
 800 disability benefits, for members initially enrolled before
 801 January 1, 2014, shall be transferred to the Florida Retirement
 802 System Trust Fund.

803 (8) INVESTMENT PLAN ADMINISTRATION.—The investment plan
 804 shall be administered by the state board and affected employers.
 805 The state board may require oaths, by affidavit or otherwise,
 806 and acknowledgments from persons in connection with the
 807 administration of its statutory duties and responsibilities for
 808 the investment plan. An oath, by affidavit or otherwise, may not
 809 be required of a member at the time of enrollment. For members
 810 initially enrolled before January 1, 2014, acknowledgment of an
 811 employee's election to participate in the program shall be no
 812 greater than necessary to confirm the employee's election. The

813 state board shall adopt rules to carry out its statutory duties
 814 with respect to administering the investment plan, including
 815 establishing the roles and responsibilities of affected state,
 816 local government, and education-related employers, the state
 817 board, the department, and third-party contractors. The
 818 department shall adopt rules necessary to administer the
 819 investment plan in coordination with the pension plan and the
 820 disability benefits available under the investment plan.

821 (a)1. The state board shall select and contract with a
 822 third-party administrator to provide administrative services if
 823 those services cannot be competitively and contractually
 824 provided by the division. With the approval of the state board,
 825 the third-party administrator may subcontract to provide
 826 components of the administrative services. As a cost of
 827 administration, the state board may compensate any such
 828 contractor for its services, in accordance with the terms of the
 829 contract, as is deemed necessary or proper by the board. The
 830 third-party administrator may not be an approved provider or be
 831 affiliated with an approved provider.

832 2. These administrative services may include, but are not
 833 limited to, enrollment of eligible employees, collection of
 834 employer and employee contributions, disbursement of
 835 contributions to approved providers in accordance with the
 836 allocation directions of members; services relating to
 837 consolidated billing; individual and collective recordkeeping
 838 and accounting; asset purchase, control, and safekeeping; and
 839 direct disbursement of funds to and from the third-party
 840 administrator, the division, the state board, employers,

841 members, approved providers, and beneficiaries. This section
 842 does not prevent or prohibit a bundled provider from providing
 843 any administrative or customer service, including accounting and
 844 administration of individual member benefits and contributions;
 845 individual member recordkeeping; asset purchase, control, and
 846 safekeeping; direct execution of the member's instructions as to
 847 asset and contribution allocation; calculation of daily net
 848 asset values; direct access to member account information; or
 849 periodic reporting to members, at least quarterly, on account
 850 balances and transactions, if these services are authorized by
 851 the state board as part of the contract.

852 (b)1. The state board shall select and contract with one
 853 or more organizations to provide educational services. With
 854 approval of the state board, the organizations may subcontract
 855 to provide components of the educational services. As a cost of
 856 administration, the state board may compensate any such
 857 contractor for its services in accordance with the terms of the
 858 contract, as is deemed necessary or proper by the board. The
 859 education organization may not be an approved provider or be
 860 affiliated with an approved provider.

861 2. Educational services shall be designed by the state
 862 board and department to assist employers, eligible employees,
 863 members, and beneficiaries in order to maintain compliance with
 864 United States Department of Labor regulations under s. 404(c) of
 865 the Employee Retirement Income Security Act of 1974 and to
 866 assist employees in their choice of pension plan or investment
 867 plan retirement alternatives. Educational services include, but
 868 are not limited to, disseminating educational materials;

869 providing retirement planning education; explaining the pension
 870 plan and the investment plan; and offering financial planning
 871 guidance on matters such as investment diversification,
 872 investment risks, investment costs, and asset allocation. An
 873 approved provider may also provide educational information,
 874 including retirement planning and investment allocation
 875 information concerning its products and services.

876 (c)1. In evaluating and selecting a third-party
 877 administrator, the state board shall establish criteria for
 878 evaluating the relative capabilities and qualifications of each
 879 proposed administrator. In developing such criteria, the state
 880 board shall consider:

881 a. The administrator's demonstrated experience in
 882 providing administrative services to public or private sector
 883 retirement systems.

884 b. The administrator's demonstrated experience in
 885 providing daily valued recordkeeping to defined contribution
 886 programs.

887 c. The administrator's ability and willingness to
 888 coordinate its activities with employers, the state board, and
 889 the division, and to supply to such employers, the board, and
 890 the division the information and data they require, including,
 891 but not limited to, monthly management reports, quarterly member
 892 reports, and ad hoc reports requested by the department or state
 893 board.

894 d. The cost-effectiveness and levels of the administrative
 895 services provided.

896 e. The administrator's ability to interact with the

897 members, the employers, the state board, the division, and the
 898 providers; the means by which members may access account
 899 information, direct investment of contributions, make changes to
 900 their accounts, transfer moneys between available investment
 901 vehicles, and transfer moneys between investment products; and
 902 any fees that apply to such activities.

903 f. Any other factor deemed necessary by the state board.

904 2. In evaluating and selecting an educational provider,
 905 the state board shall establish criteria under which it shall
 906 consider the relative capabilities and qualifications of each
 907 proposed educational provider. In developing such criteria, the
 908 state board shall consider:

909 a. Demonstrated experience in providing educational
 910 services to public or private sector retirement systems.

911 b. Ability and willingness to coordinate its activities
 912 with the employers, the state board, and the division, and to
 913 supply to such employers, the board, and the division the
 914 information and data they require, including, but not limited
 915 to, reports on educational contacts.

916 c. The cost-effectiveness and levels of the educational
 917 services provided.

918 d. Ability to provide educational services via different
 919 media, including, but not limited to, the Internet, personal
 920 contact, seminars, brochures, and newsletters.

921 e. Any other factor deemed necessary by the state board.

922 3. The establishment of the criteria shall be solely
 923 within the discretion of the state board.

924 (d) The state board shall develop the form and content of

925 any contracts to be offered under the investment plan. In
 926 developing the contracts, the board shall consider:

927 1. The nature and extent of the rights and benefits to be
 928 afforded in relation to the contributions required under the
 929 plan.

930 2. The suitability of the rights and benefits provided and
 931 the interests of employers in the recruitment and retention of
 932 eligible employees.

933 (e)1. The state board may contract for professional
 934 services, including legal, consulting, accounting, and actuarial
 935 services, deemed necessary to implement and administer the
 936 investment plan. The state board may enter into a contract with
 937 one or more vendors to provide low-cost investment advice to
 938 members, supplemental to education provided by the third-party
 939 administrator. All fees under any such contract shall be paid by
 940 those members who choose to use the services of the vendor.

941 2. The department may contract for professional services,
 942 including legal, consulting, accounting, and actuarial services,
 943 deemed necessary to implement and administer the investment plan
 944 in coordination with the pension plan. The department, in
 945 coordination with the state board, may enter into a contract
 946 with the third-party administrator in order to coordinate
 947 services common to the various programs within the Florida
 948 Retirement System.

949 (f) The third-party administrator may not receive direct
 950 or indirect compensation from an approved provider, except as
 951 specifically provided for in the contract with the state board.

952 (g) The state board shall receive and resolve member

953 complaints against the program, the third-party administrator,
 954 or any program vendor or provider; shall resolve any conflict
 955 between the third-party administrator and an approved provider
 956 if such conflict threatens the implementation or administration
 957 of the program or the quality of services to employees; and may
 958 resolve any other conflicts. The third-party administrator shall
 959 retain all member records for at least 5 years for use in
 960 resolving any member conflicts. The state board, the third-party
 961 administrator, or a provider is not required to produce
 962 documentation or an audio recording to justify action taken with
 963 regard to a member if the action occurred 5 or more years before
 964 the complaint is submitted to the state board. It is presumed
 965 that all action taken 5 or more years before the complaint is
 966 submitted was taken at the request of the member and with the
 967 member's full knowledge and consent. To overcome this
 968 presumption, the member must present documentary evidence or an
 969 audio recording demonstrating otherwise.

970 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

971 (a) The state board shall develop policy and procedures
 972 for selecting, evaluating, and monitoring the performance of
 973 approved providers and investment products under the investment
 974 plan. In accordance with such policy and procedures, the state
 975 board shall designate and contract for a number of investment
 976 products as determined by the board. The board shall also select
 977 one or more bundled providers, each of which may offer multiple
 978 investment options and related services, if such approach is
 979 determined by the board to provide value to the members
 980 otherwise not available through individual investment products.

981 Each approved bundled provider may offer investment options that
 982 provide members with the opportunity to invest in each of the
 983 following asset classes, to be composed of individual options
 984 that represent a single asset class or a combination thereof:
 985 money markets, United States fixed income, United States
 986 equities, and foreign stock. The state board shall review and
 987 manage all educational materials, contract terms, fee schedules,
 988 and other aspects of the approved provider relationships to
 989 ensure that no provider is unduly favored or penalized by virtue
 990 of its status within the investment plan. Additionally, the
 991 state board, consistent with its fiduciary responsibilities,
 992 shall develop one or more investment products to be offered in
 993 the investment plan.

994 (h) A self-directed brokerage account shall be offered as
 995 a service to investment plan members.

996 1. Notwithstanding any other provision of this section,
 997 the state board shall select a provider to offer investment plan
 998 members additional investment alternatives by providing a self-
 999 directed brokerage account.

1000 2. The state board shall contract with a provider to offer
 1001 a self-directed brokerage account. In selecting the provider,
 1002 the state board shall consider the following:

1003 a. Financial strength and stability as evidenced by the
 1004 highest ratings assigned by nationally recognized rating
 1005 services when comparing proposed providers that are so rated.

1006 b. Reasonableness of fees compared to other providers
 1007 taking into consideration the quantity and quality of services
 1008 being offered.

- 1009 | c. Compliance with the Internal Revenue Code and all
- 1010 | applicable federal and state securities laws.
- 1011 | d. Available methods for members to interact with the
- 1012 | provider and the means by which members may access account
- 1013 | information, direct investment of funds, transfer funds, and
- 1014 | receive funds prospectuses and related investment materials as
- 1015 | required by state and federal regulations.
- 1016 | e. The ability to provide prompt, efficient, and accurate
- 1017 | responses to member directions, as well as providing
- 1018 | confirmations and quarterly account statements in a timely
- 1019 | fashion.
- 1020 | f. The process by which assets are invested, as well as
- 1021 | any waiting periods when monies are transferred.
- 1022 | g. Organizational factors, including, but not limited to,
- 1023 | financial solvency, organizational depth, and experience in
- 1024 | providing self-directed brokerage account services to public
- 1025 | defined contribution plans.
- 1026 | 3. The provider of the self-directed brokerage account
- 1027 | shall:
- 1028 | a. Make the self-directed brokerage account available
- 1029 | under the most beneficial terms available to any customer.
- 1030 | b. Agree not to sell or distribute member lists generated
- 1031 | through services rendered to the investment plan.
- 1032 | c. Not be a bundled provider.
- 1033 | d. Provide for an education component that is available in
- 1034 | multimedia formats and that provides impartial and balanced
- 1035 | information about investment options and fees associated with
- 1036 | participation in the self-directed brokerage account.

1037 4. The provider, as well as any of its related entities,
 1038 may not offer any proprietary products as investment
 1039 alternatives in the self-directed brokerage account.

1040 5. The state board shall monitor the selected provider to
 1041 ensure continued compliance with established selection criteria,
 1042 board policy and procedures, state and federal regulations, and
 1043 any contractual provisions.

1044 6. The provider shall ensure that a member opening a self-
 1045 directed brokerage account is provided a quarterly statement
 1046 that details member investments in the self-directed brokerage
 1047 account. The statement shall be in lieu of, and satisfy the
 1048 requirements of, subsection (11) with respect to the member
 1049 investments in the self-directed brokerage account. The provider
 1050 shall include in the statement the following details:

- 1051 a. Account investment options.
- 1052 b. The market value of the account at the close of the
 1053 current quarter and the previous quarter.
- 1054 c. Account gains and losses.
- 1055 d. Transfers into and out of the account.
- 1056 e. Any fees, charges, penalties, and deductions that apply
 1057 to the account.

1058 7. The self-directed brokerage account may include the
 1059 following securities as investment alternatives:

- 1060 a. Stocks listed on a Securities and Exchange Commission
 1061 regulated national exchange.
- 1062 b. Exchange traded funds.
- 1063 c. Mutual funds.

1064 8. The self-directed brokerage account may not include the

- 1065 following as investment alternatives:
- 1066 a. Illiquid investments.
- 1067 b. Over-the-Counter Bulletin Board securities.
- 1068 c. Pink Sheet securities.
- 1069 d. Leveraged exchange traded funds.
- 1070 e. Direct ownership of foreign securities.
- 1071 f. Derivatives, including, but not limited to, futures and
- 1072 options contracts on securities, market indexes, and
- 1073 commodities.
- 1074 g. Buying or trading on margin.
- 1075 h. Investment plan products.
- 1076 i. Any investment that would jeopardize the investment
- 1077 plan's tax qualified status.
- 1078 9. A member may participate in the self-directed
- 1079 brokerage account if the member:
- 1080 a. Maintains a minimum balance of \$5,000 in the products
- 1081 offered under the investment plan.
- 1082 b. Makes a minimum initial transfer of funds into the
- 1083 self-directed brokerage account of \$1,000.
- 1084 c. Makes subsequent transfers of funds into the self-
- 1085 directed brokerage account in amounts of \$1,000 or greater.
- 1086 d. Pays all trading fees, commissions, administrative
- 1087 fees, and any other expenses associated with participating in
- 1088 the self-directed brokerage account from the funds in the self-
- 1089 directed brokerage account.
- 1090 e. Does not violate any trading restrictions established
- 1091 by the provider, the investment plan, or state or federal law.
- 1092 10. Employer and employee contributions shall be initially

1093 deposited into investment plan products and may be transferred
 1094 to the self-directed brokerage account.

1095 11. Distributions are not permissible directly from assets
 1096 in the self-directed brokerage account. Assets must first be
 1097 transferred to investment plan products. A distribution may be
 1098 requested after the transfer is completed and all investment
 1099 plan distribution requirements are met.

1100 12. The state board must notify members that:

1101 a. The state board is not responsible for managing the
 1102 self-directed brokerage account beyond administrative
 1103 requirements as established between the state board and the
 1104 provider of the self-directed brokerage account.

1105 b. Investment alternatives available through the self-
 1106 directed brokerage account have not been subjected to any
 1107 selection process, are not monitored by the state board, require
 1108 investment expertise to prudently buy, manage, or dispose of,
 1109 and have a risk of substantial loss.

1110 c. The member is responsible for all administrative,
 1111 investment, and trading fees associated with participating in
 1112 the self-directed brokerage account.

1113 (10) EDUCATION COMPONENT.—

1114 (a) The state board, in coordination with the department,
 1115 shall provide for an education component for eligible employees
 1116 ~~system members~~ in a manner consistent with the provisions of
 1117 this subsection ~~section~~. ~~The education component must be~~
 1118 ~~available to eligible employees at least 90 days prior to the~~
 1119 ~~beginning date of the election period for the employees of the~~
 1120 ~~respective types of employers.~~

1121 (b) The education component must provide system members
 1122 with impartial and balanced information about plan choices for
 1123 members initially enrolled before January 1, 2014. The education
 1124 component must involve multimedia formats. Program comparisons
 1125 must, to the greatest extent possible, be based upon the
 1126 retirement income that different retirement programs may provide
 1127 to the member. The state board shall monitor the performance of
 1128 the contract to ensure that the program is conducted in
 1129 accordance with the contract, applicable law, and the rules of
 1130 the state board.

1131 (c) The state board, in coordination with the department,
 1132 shall provide for an initial and ongoing transfer education
 1133 component to provide system members initially enrolled before
 1134 January 1, 2014, with information necessary to make informed
 1135 plan choice decisions. The transfer education component must
 1136 include, but is not limited to, information on:

1137 1. The amount of money available to a member to transfer
 1138 to the defined contribution program.

1139 2. The features of and differences between the pension
 1140 plan and the defined contribution program, both generally and
 1141 specifically, as those differences may affect the member.

1142 3. The expected benefit available if the member were to
 1143 retire under each of the retirement programs, based on
 1144 appropriate alternative sets of assumptions.

1145 4. The rate of return from investments in the defined
 1146 contribution program and the period of time over which such rate
 1147 of return must be achieved to equal or exceed the expected
 1148 monthly benefit payable to the member under the pension plan.

1149 5. The historical rates of return for the investment
1150 alternatives available in the defined contribution programs.

1151 6. The benefits and historical rates of return on
1152 investments available in a typical deferred compensation plan or
1153 a typical plan under s. 403(b) of the Internal Revenue Code for
1154 which the employee may be eligible.

1155 7. The program choices available to employees of the State
1156 University System and the comparative benefits of each available
1157 program, if applicable.

1158 8. Payout options available in each of the retirement
1159 programs.

1160 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
1161 ~~System employers have an obligation to regularly communicate the~~
1162 ~~existence of the two Florida Retirement System plans and the~~
1163 ~~plan choice in the natural course of administering their~~
1164 ~~personnel functions, using the educational materials supplied by~~
1165 ~~the state board and the Department of Management Services.~~

1166 (15) STATEMENT OF FIDUCIARY STANDARDS AND
1167 RESPONSIBILITIES.—

1168 (a) Investment of investment ~~defined contribution~~ plan
1169 assets shall be made for the sole interest and exclusive purpose
1170 of providing benefits to members and beneficiaries and defraying
1171 reasonable expenses of administering the plan. The program's
1172 assets shall be invested on behalf of the program members with
1173 the care, skill, and diligence that a prudent person acting in a
1174 like manner would undertake. The performance of the investment
1175 duties set forth in this paragraph shall comply with the
1176 fiduciary standards set forth in the Employee Retirement Income

1177 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case
 1178 of conflict with other provisions of law authorizing
 1179 investments, the investment and fiduciary standards set forth in
 1180 this subsection shall prevail.

1181 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate
 1182 the federal law concept of participant control, established by
 1183 regulations of the United States Department of Labor under s.
 1184 404(c) of the Employee Retirement Income Security Act of 1974
 1185 (ERISA). The purpose of this paragraph is to assist employers
 1186 and the state board in maintaining compliance with s. 404(c),
 1187 while avoiding unnecessary costs and eroding member benefits
 1188 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
 1189 5(d)(4) ~~2550.404e-1(b)(2)(i)(B)(1)(viii)~~, the state board or its
 1190 designated agents shall deliver to members of the investment
 1191 plan a copy of the prospectus most recently provided to the
 1192 plan, ~~and, pursuant to 29 C.F.R. s. 2550.404e-~~
 1193 ~~1(b)(2)(i)(B)(2)(ii), shall provide such members an opportunity~~
 1194 ~~to obtain this information, except that:~~

1195 1. The requirement to deliver a prospectus shall be
 1196 satisfied by delivery of a fund profile or summary profile that
 1197 contains the information that would be included in a summary
 1198 prospectus as described by Rule 498 under the Securities Act of
 1199 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
 1200 information or other information provided by a mutual fund in
 1201 the prospectus does not reflect terms negotiated by the state
 1202 board or its designated agents, the requirement is satisfied by
 1203 delivery of a separate document described by Rule 498
 1204 substituting accurate information; and

1205 2. Delivery shall be effected if delivery is through
 1206 electronic means and the following standards are satisfied:

1207 a. Electronically-delivered documents are prepared and
 1208 provided consistent with style, format, and content requirements
 1209 applicable to printed documents;

1210 b. Each member is provided timely and adequate notice of
 1211 the documents that are to be delivered, and their significance,
 1212 and of the member's right to obtain a paper copy of such
 1213 documents free of charge;

1214 c. Members have adequate access to the electronic
 1215 documents, at locations such as their worksites or public
 1216 facilities, and have the ability to convert the documents to
 1217 paper free of charge by the state board, and the board or its
 1218 designated agents take appropriate and reasonable measures to
 1219 ensure that the system for furnishing electronic documents
 1220 results in actual receipt. Members have provided consent to
 1221 receive information in electronic format, which consent may be
 1222 revoked; and

1223 d. The state board, or its designated agent, actually
 1224 provides paper copies of the documents free of charge, upon
 1225 request.

1226 3. The state board is not required to deliver a prospectus
 1227 or other information for the underlying investments available
 1228 through the self-directed brokerage account authorized by
 1229 paragraph (9) (h).

1230 (16) DISABILITY BENEFITS.—For any member of the investment
 1231 plan initially enrolled in the Florida Retirement System before
 1232 January 1, 2014, who becomes totally and permanently disabled,

1233 benefits must be paid in accordance with the provisions of s.
 1234 121.591. Investment plan members initially enrolled in the
 1235 Florida Retirement System on or after January 1, 2014, are not
 1236 entitled to disability benefits as provided by this chapter.

1237 Section 6. Subsection (2) of section 121.591, Florida
 1238 Statutes, is amended to read:

1239 121.591 Payment of benefits.—Benefits may not be paid
 1240 under the Florida Retirement System Investment Plan unless the
 1241 member has terminated employment as provided in s.
 1242 121.021(39)(a) or is deceased and a proper application has been
 1243 filed as prescribed by the state board or the department.
 1244 Benefits, including employee contributions, are not payable
 1245 under the investment plan for employee hardships, unforeseeable
 1246 emergencies, loans, medical expenses, educational expenses,
 1247 purchase of a principal residence, payments necessary to prevent
 1248 eviction or foreclosure on an employee's principal residence, or
 1249 any other reason except a requested distribution for retirement,
 1250 a mandatory de minimis distribution authorized by the
 1251 administrator, or a required minimum distribution provided
 1252 pursuant to the Internal Revenue Code. The state board or
 1253 department, as appropriate, may cancel an application for
 1254 retirement benefits if the member or beneficiary fails to timely
 1255 provide the information and documents required by this chapter
 1256 and the rules of the state board and department. In accordance
 1257 with their respective responsibilities, the state board and the
 1258 department shall adopt rules establishing procedures for
 1259 application for retirement benefits and for the cancellation of
 1260 such application if the required information or documents are

1261 not received. The state board and the department, as
 1262 appropriate, are authorized to cash out a de minimis account of
 1263 a member who has been terminated from Florida Retirement System
 1264 covered employment for a minimum of 6 calendar months. A de
 1265 minimis account is an account containing employer and employee
 1266 contributions and accumulated earnings of not more than \$5,000
 1267 made under the provisions of this chapter. Such cash-out must be
 1268 a complete lump-sum liquidation of the account balance, subject
 1269 to the provisions of the Internal Revenue Code, or a lump-sum
 1270 direct rollover distribution paid directly to the custodian of
 1271 an eligible retirement plan, as defined by the Internal Revenue
 1272 Code, on behalf of the member. Any nonvested accumulations and
 1273 associated service credit, including amounts transferred to the
 1274 suspense account of the Florida Retirement System Investment
 1275 Plan Trust Fund authorized under s. 121.4501(6), shall be
 1276 forfeited upon payment of any vested benefit to a member or
 1277 beneficiary, except for de minimis distributions or minimum
 1278 required distributions as provided under this section. If any
 1279 financial instrument issued for the payment of retirement
 1280 benefits under this section is not presented for payment within
 1281 180 days after the last day of the month in which it was
 1282 originally issued, the third-party administrator or other duly
 1283 authorized agent of the state board shall cancel the instrument
 1284 and credit the amount of the instrument to the suspense account
 1285 of the Florida Retirement System Investment Plan Trust Fund
 1286 authorized under s. 121.4501(6). Any amounts transferred to the
 1287 suspense account are payable upon a proper application, not to
 1288 include earnings thereon, as provided in this section, within 10

1289 years after the last day of the month in which the instrument
 1290 was originally issued, after which time such amounts and any
 1291 earnings attributable to employer contributions shall be
 1292 forfeited. Any forfeited amounts are assets of the trust fund
 1293 and are not subject to chapter 717.

1294 (2) DISABILITY RETIREMENT BENEFITS.—Benefits provided
 1295 under this subsection are payable in lieu of the benefits that
 1296 would otherwise be payable under the provisions of subsection
 1297 (1) for investment plan members initially enrolled in the
 1298 Florida Retirement System before January 1, 2014. Such benefits
 1299 for eligible members must be funded from employer contributions
 1300 made under s. 121.571, transferred employee contributions and
 1301 funds accumulated pursuant to paragraph (a), and interest and
 1302 earnings thereon. Investment plan members initially enrolled in
 1303 the Florida Retirement System on or after January 1, 2014, are
 1304 not eligible for disability benefits as provided by this
 1305 section.

1306 (a) Transfer of funds.—To qualify to receive monthly
 1307 disability benefits under this subsection:

1308 1. All moneys accumulated in the member's account,
 1309 including vested and nonvested accumulations as described in s.
 1310 121.4501(6), must be transferred from such individual accounts
 1311 to the division for deposit in the disability account of the
 1312 Florida Retirement System Trust Fund. Such moneys must be
 1313 accounted for separately. Earnings must be credited on an annual
 1314 basis for amounts held in the disability accounts of the Florida
 1315 Retirement System Trust Fund based on actual earnings of the
 1316 trust fund.

1317 2. If the member has retained retirement credit earned
 1318 under the pension plan as provided in s. 121.4501(3), a sum
 1319 representing the actuarial present value of such credit within
 1320 the Florida Retirement System Trust Fund shall be reassigned by
 1321 the division from the pension plan to the disability program as
 1322 implemented under this subsection and shall be deposited in the
 1323 disability account of the trust fund. Such moneys must be
 1324 accounted for separately.

1325 (b) Disability retirement; entitlement.—

1326 1. An eligible A member of the investment plan who becomes
 1327 totally and permanently disabled, as defined in paragraph (d),
 1328 after completing 8 years of creditable service, or an eligible a
 1329 member who becomes totally and permanently disabled in the line
 1330 of duty regardless of length of service, is entitled to a
 1331 monthly disability benefit.

1332 2. In order for service to apply toward the 8 years of
 1333 creditable service required for regular disability benefits, or
 1334 toward the creditable service used in calculating a service-
 1335 based benefit as provided under paragraph (g), the service must
 1336 be creditable service as described below:

1337 a. The member's period of service under the investment
 1338 plan shall be considered creditable service, except as provided
 1339 in subparagraph d.

1340 b. If the member has elected to retain credit for service
 1341 under the pension plan as provided under s. 121.4501(3), all
 1342 such service shall be considered creditable service.

1343 c. If the member elects to transfer to his or her member
 1344 accounts a sum representing the present value of his or her

1345 retirement credit under the pension plan as provided under s.
 1346 121.4501(3), the period of service under the pension plan
 1347 represented in the present value amounts transferred shall be
 1348 considered creditable service, except as provided in
 1349 subparagraph d.

1350 d. If a member has terminated employment and has taken
 1351 distribution of his or her funds as provided in subsection (1),
 1352 all creditable service represented by such distributed funds is
 1353 forfeited for purposes of this subsection.

1354 (c) Disability retirement effective date.—The effective
 1355 retirement date for an eligible ~~a~~ member who applies and is
 1356 approved for disability retirement shall be established as
 1357 provided under s. 121.091(4)(a)2. and 3.

1358 (d) Total and permanent disability.—An eligible ~~A~~ member
 1359 shall be considered totally and permanently disabled if, in the
 1360 opinion of the division, he or she is prevented, by reason of a
 1361 medically determinable physical or mental impairment, from
 1362 rendering useful and efficient service as an officer or
 1363 employee.

1364 (e) Proof of disability.— Before approving payment of any
 1365 disability retirement benefit, the division shall require proof
 1366 that the member is totally and permanently disabled as provided
 1367 under s. 121.091(4)(c).

1368 (f) Disability retirement benefit.—Upon the disability
 1369 retirement of a member under this subsection, the member shall
 1370 receive a monthly benefit that begins accruing on the first day
 1371 of the month of disability retirement, as approved by the
 1372 division, and is payable on the last day of that month and each

1373 month thereafter during his or her lifetime and continued
 1374 disability. All disability benefits must be paid out of the
 1375 disability account of the Florida Retirement System Trust Fund
 1376 established under this subsection.

1377 (g) Computation of disability retirement benefit.—The
 1378 amount of each monthly payment must be calculated as provided
 1379 under s. 121.091(4)(f). Creditable service under both the
 1380 pension plan and the investment plan shall be applicable as
 1381 provided under paragraph (b).

1382 (h) Reapplication.—A member whose initial application for
 1383 disability retirement is denied may reapply for disability
 1384 benefits as provided in s. 121.091(4)(g).

1385 (i) Membership.—Upon approval of a member's application
 1386 for disability benefits, the member shall be transferred to the
 1387 pension plan, effective upon his or her disability retirement
 1388 effective date.

1389 (j) Option to cancel.—A member whose application for
 1390 disability benefits is approved may cancel the application if
 1391 the cancellation request is received by the division before a
 1392 disability retirement warrant has been deposited, cashed, or
 1393 received by direct deposit. Upon cancellation:

1394 1. The member's transfer to the pension plan under
 1395 paragraph (i) shall be nullified;

1396 2. The member shall be retroactively reinstated in the
 1397 investment plan without hiatus;

1398 3. All funds transferred to the Florida Retirement System
 1399 Trust Fund under paragraph (a) must be returned to the member
 1400 accounts from which the funds were drawn; and

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1401 4. The member may elect to receive the benefit payable
 1402 under subsection (1) in lieu of disability benefits.

1403 (k) Recovery from disability.—

1404 1. The division may require periodic reexaminations at the
 1405 expense of the disability program account of the Florida
 1406 Retirement System Trust Fund. Except as provided in subparagraph
 1407 2., all other matters relating to recovery from disability shall
 1408 be as provided under s. 121.091(4)(h).

1409 2. Upon recovery from disability, the recipient of
 1410 disability retirement benefits under this subsection shall be a
 1411 compulsory member of the investment plan. The net difference
 1412 between the recipient's original account balance transferred to
 1413 the Florida Retirement System Trust Fund, including earnings and
 1414 total disability benefits paid to such recipient, if any, shall
 1415 be determined as provided in sub-subparagraph a.

1416 a. An amount equal to the total benefits paid shall be
 1417 subtracted from that portion of the transferred account balance
 1418 consisting of vested accumulations as described under s.
 1419 121.4501(6), if any, and an amount equal to the remainder of
 1420 benefit amounts paid, if any, shall be subtracted from any
 1421 remaining nonvested accumulations.

1422 b. Amounts subtracted under sub-subparagraph a. must be
 1423 retained within the disability account of the Florida Retirement
 1424 System Trust Fund. Any remaining account balance shall be
 1425 transferred to the third-party administrator for disposition as
 1426 provided under sub-subparagraph c. or sub-subparagraph d., as
 1427 appropriate.

1428 c. If the recipient returns to covered employment,

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1429 transferred amounts must be deposited in individual accounts
 1430 under the investment plan, as directed by the member. Vested and
 1431 nonvested amounts shall be accounted for separately as provided
 1432 in s. 121.4501(6).

1433 d. If the recipient fails to return to covered employment
 1434 upon recovery from disability:

1435 (I) Any remaining vested amount must be deposited in
 1436 individual accounts under the investment plan, as directed by
 1437 the member, and is payable as provided in subsection (1).

1438 (II) Any remaining nonvested amount must be held in a
 1439 suspense account and is forfeitable after 5 years as provided in
 1440 s. 121.4501(6).

1441 3. If present value was reassigned from the pension plan
 1442 to the disability program as provided under subparagraph (a)2.,
 1443 the full present value amount must be returned to the defined
 1444 benefit account within the Florida Retirement System Trust Fund
 1445 and the member's associated retirement credit under the pension
 1446 plan must be reinstated in full. Any benefit based upon such
 1447 credit must be calculated as provided in s. 121.091(4)(h)1.

1448 (l) Nonadmissible causes of disability.—A member is not
 1449 entitled to a disability retirement benefit if the disability
 1450 results from any injury or disease as described in s.
 1451 121.091(4)(i).

1452 (m) Disability retirement of justice or judge by order of
 1453 Supreme Court.—

1454 1. If an eligible ~~a~~ member is a justice of the Supreme
 1455 Court, judge of a district court of appeal, circuit judge, or
 1456 judge of a county court who has served for the years equal to,

1457 or greater than, the vesting requirement in s. 121.021(45) as an
 1458 elected constitutional judicial officer, including service as a
 1459 judicial officer in any court abolished pursuant to Art. V of
 1460 the State Constitution, and who is retired for disability
 1461 pursuant to s. 12, Art. V of the State Constitution, the
 1462 member's Option 1 monthly disability benefit amount as provided
 1463 in s. 121.091(6)(a)1. shall be two-thirds of his or her monthly
 1464 compensation as of the member's disability retirement date. The
 1465 member may alternatively elect to receive an actuarially
 1466 adjusted disability retirement benefit under any other option as
 1467 provided in s. 121.091(6)(a) or to receive the normal benefit
 1468 payable under subsection (1).

1469 2. If any justice or judge who is a member of the
 1470 investment plan is retired for disability pursuant to s. 12,
 1471 Art. V of the State Constitution and elects to receive a monthly
 1472 disability benefit under the provisions of this paragraph:

1473 a. Any present value amount that was transferred to his or
 1474 her investment plan account and all employer and employee
 1475 contributions made to such account on his or her behalf, plus
 1476 interest and earnings thereon, must be transferred to and
 1477 deposited in the disability account of the Florida Retirement
 1478 System Trust Fund; and

1479 b. The monthly disability benefits payable under this
 1480 paragraph shall be paid from the disability account of the
 1481 Florida Retirement System Trust Fund.

1482 (n) Death of retiree or beneficiary.—Upon the death of a
 1483 disabled retiree or beneficiary of the retiree who is receiving
 1484 monthly disability benefits under this subsection, the monthly

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1485 benefits shall be paid through the last day of the month of
 1486 death and shall terminate, or be adjusted, if applicable, as of
 1487 that date in accordance with the optional form of benefit
 1488 selected at the time of retirement. The department may adopt
 1489 rules necessary to administer this paragraph.

1490

1491 Section 7. Section 238.072, Florida Statutes, is amended
 1492 to read:

1493 238.072 Special service provisions for extension
 1494 personnel.—All state and county cooperative extension personnel
 1495 holding appointments by the United States Department of
 1496 Agriculture for extension work in agriculture and home economics
 1497 in this state who are joint representatives of the University of
 1498 Florida and the United States Department of Agriculture, as
 1499 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
 1500 Teachers' Retirement System, chapter 238, and who are prohibited
 1501 from transferring to and participating in the Florida Retirement
 1502 System, chapter 121, may retire with full benefits upon
 1503 completion of 30 years of creditable service and shall be
 1504 considered to have attained normal retirement age under this
 1505 chapter, any law to the contrary notwithstanding. In order to
 1506 comply with the provisions of s. 14, Art. X of the State
 1507 Constitution, any liability accruing to the Florida Retirement
 1508 System Trust Fund as a result of the provisions of this section
 1509 shall be paid on an annual basis from the General Revenue Fund.

1510 Section 8. Subsection (11) of section 413.051, Florida
 1511 Statutes, is amended to read:

1512 413.051 Eligible blind persons; operation of vending

1513 stands.—

1514 (11) Effective July 1, 1996, blind licensees who remain

1515 members of the Florida Retirement System pursuant to s.

1516 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated

1517 retirement costs from their net profits or from program income.

1518 Within 30 days after the effective date of this act, each blind

1519 licensee who is eligible to maintain membership in the Florida

1520 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but

1521 who elects to withdraw from the system as provided in s.

1522 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,

1523 1996, notify the Division of Blind Services and the Department

1524 of Management Services in writing of his or her election to

1525 withdraw. Failure to timely notify the divisions shall be deemed

1526 a decision to remain a compulsory member of the Florida

1527 Retirement System. However, if, at any time after July 1, 1996,

1528 sufficient funds are not paid by a blind licensee to cover the

1529 required contribution to the Florida Retirement System, that

1530 blind licensee shall become ineligible to participate in the

1531 Florida Retirement System on the last day of the first month for

1532 which no contribution is made or the amount contributed is

1533 insufficient to cover the required contribution. For any blind

1534 licensee who becomes ineligible to participate in the Florida

1535 Retirement System as described in this subsection, no creditable

1536 service shall be earned under the Florida Retirement System for

1537 any period following the month that retirement contributions

1538 ceased to be reported. However, any such person may participate

1539 in the Florida Retirement System in the future if employed by a

1540 participating employer in a covered position.

1541 Section 9. (1) Effective January 1, 2014, in order to
 1542 fund the benefit changes provided in this act, the required
 1543 employer contribution rates for the unfunded actuarial liability
 1544 of the Florida Retirement System established in section
 1545 121.71(5), Florida Statute, shall be adjusted as follows:

1546 (a) Elected Officers' Class.—Legislators, the Governor,
 1547 the Lieutenant Governor, Cabinet Officers, State Attorneys, and
 1548 Public Defenders shall be increased by 0.02 percentage points.

1549 (b) Elected Officers' Class.—County Elected Officers shall
 1550 be increased by 0.02 percentage points.

1551 (c) Senior Management Service Class.—The Senior Management
 1552 Service Class shall be decreased by 0.01 percentage points.

1553 (2) The adjustments provided in subsection (1) shall be in
 1554 addition to all other changes to such contribution rates which
 1555 may be enacted into law to take effect on July 1, 2013, and July
 1556 1, 2014. The Division of Law Revision and Information is
 1557 requested to adjust accordingly the contribution rates provided
 1558 in section 121.71, Florida Statutes.

1559 Section 10. The Legislature finds that a proper and
 1560 legitimate state purpose is served when employees and retirees
 1561 of the state and its political subdivisions, and the dependents,
 1562 survivors, and beneficiaries of such employees and retirees, are
 1563 extended the basic protections afforded by governmental
 1564 retirement systems. These persons must be provided benefits that
 1565 are fair and adequate and that are managed, administered, and
 1566 funded in an actuarially sound manner, as required by s. 14,
 1567 Article X of the State Constitution and part VII of chapter 112,
 1568 Florida Statutes. Therefore, the Legislature determines and

1569 declares that this act fulfills an important state interest.

1570 Section 11. (1) Effective upon this act becoming a law,
 1571 the State Board of Administration and the Department of
 1572 Management Services shall request, as soon as practicable, a
 1573 determination letter from the United States Internal Revenue
 1574 Service. If the Internal Revenue Service refuses to act upon a
 1575 request for a determination letter, then a legal opinion from a
 1576 qualified tax attorney or firm may be substituted for such
 1577 letter.

1578 (2) If the board or the department receives notification
 1579 from the United States Internal Revenue Service that this act or
 1580 any portion of this act will cause the Florida Retirement
 1581 System, or a portion thereof, to be disqualified for tax
 1582 purposes under the Internal Revenue Code, then the portion that
 1583 will cause the disqualification does not apply. Upon such
 1584 notice, the state board and the department shall notify the
 1585 presiding officers of the Legislature.

1586 Section 12. Except as otherwise expressly provided in this
 1587 act and except for this section, which shall take effect upon
 1588 this act becoming a law, this act shall take effect July 1,
 1589 2013.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: State Affairs Committee
Representatives Brodeur and Steube offered the following:

Amendment (with directory and title amendments)

Remove lines 800-1552 and insert:

disability benefits shall be transferred to the Florida
Retirement System Trust Fund.

(8) INVESTMENT PLAN ADMINISTRATION.—The investment plan shall be administered by the state board and affected employers. The state board may require oaths, by affidavit or otherwise, and acknowledgments from persons in connection with the administration of its statutory duties and responsibilities for the investment plan. An oath, by affidavit or otherwise, may not be required of a member at the time of enrollment. For members initially enrolled before January 1, 2014, acknowledgment of an employee's election to participate in the program shall be no greater than necessary to confirm the employee's election. The state board shall adopt rules to carry out its statutory duties with respect to administering the investment plan, including



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21 establishing the roles and responsibilities of affected state,
22 local government, and education-related employers, the state
23 board, the department, and third-party contractors. The
24 department shall adopt rules necessary to administer the
25 investment plan in coordination with the pension plan and the
26 disability benefits available under the investment plan.

27 (a)1. The state board shall select and contract with a
28 third-party administrator to provide administrative services if
29 those services cannot be competitively and contractually
30 provided by the division. With the approval of the state board,
31 the third-party administrator may subcontract to provide
32 components of the administrative services. As a cost of
33 administration, the state board may compensate any such
34 contractor for its services, in accordance with the terms of the
35 contract, as is deemed necessary or proper by the board. The
36 third-party administrator may not be an approved provider or be
37 affiliated with an approved provider.

38 2. These administrative services may include, but are not
39 limited to, enrollment of eligible employees, collection of
40 employer and employee contributions, disbursement of
41 contributions to approved providers in accordance with the
42 allocation directions of members; services relating to
43 consolidated billing; individual and collective recordkeeping
44 and accounting; asset purchase, control, and safekeeping; and
45 direct disbursement of funds to and from the third-party
46 administrator, the division, the state board, employers,
47 members, approved providers, and beneficiaries. This section
48 does not prevent or prohibit a bundled provider from providing



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49 any administrative or customer service, including accounting and
50 administration of individual member benefits and contributions;
51 individual member recordkeeping; asset purchase, control, and
52 safekeeping; direct execution of the member's instructions as to
53 asset and contribution allocation; calculation of daily net
54 asset values; direct access to member account information; or
55 periodic reporting to members, at least quarterly, on account
56 balances and transactions, if these services are authorized by
57 the state board as part of the contract.

58 (b)1. The state board shall select and contract with one
59 or more organizations to provide educational services. With
60 approval of the state board, the organizations may subcontract
61 to provide components of the educational services. As a cost of
62 administration, the state board may compensate any such
63 contractor for its services in accordance with the terms of the
64 contract, as is deemed necessary or proper by the board. The
65 education organization may not be an approved provider or be
66 affiliated with an approved provider.

67 2. Educational services shall be designed by the state
68 board and department to assist employers, eligible employees,
69 members, and beneficiaries in order to maintain compliance with
70 United States Department of Labor regulations under s. 404(c) of
71 the Employee Retirement Income Security Act of 1974 and to
72 assist employees in their choice of pension plan or investment
73 plan retirement alternatives. Educational services include, but
74 are not limited to, disseminating educational materials;
75 providing retirement planning education; explaining the pension
76 plan and the investment plan; and offering financial planning



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77 guidance on matters such as investment diversification,
78 investment risks, investment costs, and asset allocation. An
79 approved provider may also provide educational information,
80 including retirement planning and investment allocation
81 information concerning its products and services.

82 (c)1. In evaluating and selecting a third-party
83 administrator, the state board shall establish criteria for
84 evaluating the relative capabilities and qualifications of each
85 proposed administrator. In developing such criteria, the state
86 board shall consider:

87 a. The administrator's demonstrated experience in
88 providing administrative services to public or private sector
89 retirement systems.

90 b. The administrator's demonstrated experience in
91 providing daily valued recordkeeping to defined contribution
92 programs.

93 c. The administrator's ability and willingness to
94 coordinate its activities with employers, the state board, and
95 the division, and to supply to such employers, the board, and
96 the division the information and data they require, including,
97 but not limited to, monthly management reports, quarterly member
98 reports, and ad hoc reports requested by the department or state
99 board.

100 d. The cost-effectiveness and levels of the administrative
101 services provided.

102 e. The administrator's ability to interact with the
103 members, the employers, the state board, the division, and the
104 providers; the means by which members may access account



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105 information, direct investment of contributions, make changes to
106 their accounts, transfer moneys between available investment
107 vehicles, and transfer moneys between investment products; and
108 any fees that apply to such activities.

109 f. Any other factor deemed necessary by the state board.

110 2. In evaluating and selecting an educational provider,
111 the state board shall establish criteria under which it shall
112 consider the relative capabilities and qualifications of each
113 proposed educational provider. In developing such criteria, the
114 state board shall consider:

115 a. Demonstrated experience in providing educational
116 services to public or private sector retirement systems.

117 b. Ability and willingness to coordinate its activities
118 with the employers, the state board, and the division, and to
119 supply to such employers, the board, and the division the
120 information and data they require, including, but not limited
121 to, reports on educational contacts.

122 c. The cost-effectiveness and levels of the educational
123 services provided.

124 d. Ability to provide educational services via different
125 media, including, but not limited to, the Internet, personal
126 contact, seminars, brochures, and newsletters.

127 e. Any other factor deemed necessary by the state board.

128 3. The establishment of the criteria shall be solely
129 within the discretion of the state board.

130 (d) The state board shall develop the form and content of
131 any contracts to be offered under the investment plan. In
132 developing the contracts, the board shall consider:



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133 1. The nature and extent of the rights and benefits to be
134 afforded in relation to the contributions required under the
135 plan.

136 2. The suitability of the rights and benefits provided and
137 the interests of employers in the recruitment and retention of
138 eligible employees.

139 (e)1. The state board may contract for professional
140 services, including legal, consulting, accounting, and actuarial
141 services, deemed necessary to implement and administer the
142 investment plan. The state board may enter into a contract with
143 one or more vendors to provide low-cost investment advice to
144 members, supplemental to education provided by the third-party
145 administrator. All fees under any such contract shall be paid by
146 those members who choose to use the services of the vendor.

147 2. The department may contract for professional services,
148 including legal, consulting, accounting, and actuarial services,
149 deemed necessary to implement and administer the investment plan
150 in coordination with the pension plan. The department, in
151 coordination with the state board, may enter into a contract
152 with the third-party administrator in order to coordinate
153 services common to the various programs within the Florida
154 Retirement System.

155 (f) The third-party administrator may not receive direct
156 or indirect compensation from an approved provider, except as
157 specifically provided for in the contract with the state board.

158 (g) The state board shall receive and resolve member
159 complaints against the program, the third-party administrator,
160 or any program vendor or provider; shall resolve any conflict



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161 between the third-party administrator and an approved provider
162 if such conflict threatens the implementation or administration
163 of the program or the quality of services to employees; and may
164 resolve any other conflicts. The third-party administrator shall
165 retain all member records for at least 5 years for use in
166 resolving any member conflicts. The state board, the third-party
167 administrator, or a provider is not required to produce
168 documentation or an audio recording to justify action taken with
169 regard to a member if the action occurred 5 or more years before
170 the complaint is submitted to the state board. It is presumed
171 that all action taken 5 or more years before the complaint is
172 submitted was taken at the request of the member and with the
173 member's full knowledge and consent. To overcome this
174 presumption, the member must present documentary evidence or an
175 audio recording demonstrating otherwise.

176 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE REVIEW.—

177 (a) The state board shall develop policy and procedures
178 for selecting, evaluating, and monitoring the performance of
179 approved providers and investment products under the investment
180 plan. In accordance with such policy and procedures, the state
181 board shall designate and contract for a number of investment
182 products as determined by the board. The board shall also select
183 one or more bundled providers, each of which may offer multiple
184 investment options and related services, if such approach is
185 determined by the board to provide value to the members
186 otherwise not available through individual investment products.
187 Each approved bundled provider may offer investment options that
188 provide members with the opportunity to invest in each of the



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189 following asset classes, to be composed of individual options
190 that represent a single asset class or a combination thereof:
191 money markets, United States fixed income, United States
192 equities, and foreign stock. The state board shall review and
193 manage all educational materials, contract terms, fee schedules,
194 and other aspects of the approved provider relationships to
195 ensure that no provider is unduly favored or penalized by virtue
196 of its status within the investment plan. Additionally, the
197 state board, consistent with its fiduciary responsibilities,
198 shall develop one or more investment products to be offered in
199 the investment plan.

200 (h) A self-directed brokerage account shall be offered as
201 a service to investment plan members.

202 1. Notwithstanding any other provision of this section,
203 the state board shall select a provider to offer investment plan
204 members additional investment alternatives by providing a self-
205 directed brokerage account.

206 2. The state board shall contract with a provider to offer
207 a self-directed brokerage account. In selecting the provider,
208 the state board shall consider the following:

209 a. Financial strength and stability as evidenced by the
210 highest ratings assigned by nationally recognized rating
211 services when comparing proposed providers that are so rated.

212 b. Reasonableness of fees compared to other providers
213 taking into consideration the quantity and quality of services
214 being offered.

215 c. Compliance with the Internal Revenue Code and all
216 applicable federal and state securities laws.



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217 d. Available methods for members to interact with the
218 provider and the means by which members may access account
219 information, direct investment of funds, transfer funds, and
220 receive funds prospectuses and related investment materials as
221 required by state and federal regulations.

222 e. The ability to provide prompt, efficient, and accurate
223 responses to member directions, as well as providing
224 confirmations and quarterly account statements in a timely
225 fashion.

226 f. The process by which assets are invested, as well as
227 any waiting periods when monies are transferred.

228 g. Organizational factors, including, but not limited to,
229 financial solvency, organizational depth, and experience in
230 providing self-directed brokerage account services to public
231 defined contribution plans.

232 3. The provider of the self-directed brokerage account
233 shall:

234 a. Make the self-directed brokerage account available
235 under the most beneficial terms available to any customer.

236 b. Agree not to sell or distribute member lists generated
237 through services rendered to the investment plan.

238 c. Not be a bundled provider.

239 d. Provide for an education component approved by the
240 state board that is available in multimedia formats and that
241 provides impartial and balanced information about investment
242 options and fees associated with participation in the self-
243 directed brokerage account.



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244 4. The provider, as well as any of its related entities,
245 may not offer any proprietary products as investment
246 alternatives in the self-directed brokerage account.

247 5. The state board shall monitor the selected provider to
248 ensure continued compliance with established selection criteria,
249 board policy and procedures, state and federal regulations, and
250 any contractual provisions.

251 6. The provider shall ensure that a member opening a self-
252 directed brokerage account is provided a quarterly statement
253 that details member investments in the self-directed brokerage
254 account. The statement shall be in lieu of, and satisfy the
255 requirements of, subsection (11) with respect to the member
256 investments in the self-directed brokerage account. The provider
257 shall include in the statement the following details:

258 a. Account investment options.

259 b. The market value of the account at the close of the
260 current quarter and the previous quarter.

261 c. Account gains and losses.

262 d. Transfers into and out of the account.

263 e. Any fees, charges, penalties, and deductions that apply
264 to the account.

265 7. The self-directed brokerage account may include the
266 following securities as investment alternatives:

267 a. Stocks listed on a Securities and Exchange Commission
268 regulated national exchange.

269 b. Exchange traded funds.

270 c. Mutual funds.



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271 8. The self-directed brokerage account may not include the
272 following as investment alternatives:

273 a. Illiquid investments.

274 b. Over-the-Counter Bulletin Board securities.

275 c. Pink Sheet securities.

276 d. Leveraged exchange traded funds.

277 e. Direct ownership of foreign securities.

278 f. Derivatives, including, but not limited to, futures and
279 options contracts on securities, market indexes, and
280 commodities.

281 g. Buying or trading on margin.

282 h. Investment plan products.

283 i. Any investment that would jeopardize the investment
284 plan's tax qualified status.

285 9. A member may participate in the self-directed
286 brokerage account if the member:

287 a. Maintains a minimum balance of \$5,000 in the products
288 offered under the investment plan.

289 b. Makes a minimum initial transfer of funds into the
290 self-directed brokerage account of \$1,000.

291 c. Makes subsequent transfers of funds into the self-
292 directed brokerage account in amounts of \$1,000 or greater.

293 d. Pays all trading fees, commissions, administrative
294 fees, and any other expenses associated with participating in
295 the self-directed brokerage account from the funds in the self-
296 directed brokerage account.

297 e. Does not violate any trading restrictions established
298 by the provider, the investment plan, or state or federal law.



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299 10. Employer and employee contributions shall be initially
300 deposited into investment plan products and may be transferred
301 to the self-directed brokerage account.

302 11. Distributions are not permissible directly from assets
303 in the self-directed brokerage account. Assets must first be
304 transferred to investment plan products. A distribution may be
305 requested after the transfer is completed and all investment
306 plan distribution requirements are met.

307 12. The state board must notify members that:

308 a. The state board is not responsible for managing the
309 self-directed brokerage account beyond administrative
310 requirements as established between the state board and the
311 provider of the self-directed brokerage account.

312 b. Investment alternatives available through the self-
313 directed brokerage account have not been subjected to any
314 selection process, are not monitored by the state board, require
315 investment expertise to prudently buy, manage, or dispose of,
316 and have a risk of substantial loss.

317 c. The member is responsible for all administrative,
318 investment, and trading fees associated with participating in
319 the self-directed brokerage account.

320 (10) EDUCATION COMPONENT.—

321 (a) The state board, in coordination with the department,
322 shall provide for an education component for eligible employees
323 ~~system members~~ in a manner consistent with the provisions of
324 this subsection ~~section~~. ~~The education component must be~~
325 ~~available to eligible employees at least 90 days prior to the~~



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326 ~~beginning date of the election period for the employees of the~~
327 ~~respective types of employers.~~

328 (b) The education component must provide system members
329 with impartial and balanced information about plan choices for
330 members initially enrolled before January 1, 2014. The education
331 component must involve multimedia formats. Program comparisons
332 must, to the greatest extent possible, be based upon the
333 retirement income that different retirement programs may provide
334 to the member. The state board shall monitor the performance of
335 the contract to ensure that the program is conducted in
336 accordance with the contract, applicable law, and the rules of
337 the state board.

338 (c) The state board, in coordination with the department,
339 shall provide for an initial and ongoing transfer education
340 component to provide system members initially enrolled before
341 January 1, 2014, with information necessary to make informed
342 plan choice decisions. The transfer education component must
343 include, but is not limited to, information on:

344 1. The amount of money available to a member to transfer
345 to the defined contribution program.

346 2. The features of and differences between the pension
347 plan and the defined contribution program, both generally and
348 specifically, as those differences may affect the member.

349 3. The expected benefit available if the member were to
350 retire under each of the retirement programs, based on
351 appropriate alternative sets of assumptions.

352 4. The rate of return from investments in the defined
353 contribution program and the period of time over which such rate



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354 of return must be achieved to equal or exceed the expected
355 monthly benefit payable to the member under the pension plan.

356 5. The historical rates of return for the investment
357 alternatives available in the defined contribution programs.

358 6. The benefits and historical rates of return on
359 investments available in a typical deferred compensation plan or
360 a typical plan under s. 403(b) of the Internal Revenue Code for
361 which the employee may be eligible.

362 7. The program choices available to employees of the State
363 University System and the comparative benefits of each available
364 program, if applicable.

365 8. Payout options available in each of the retirement
366 programs.

367 ~~(h) Pursuant to subsection (8), all Florida Retirement~~
368 ~~System employers have an obligation to regularly communicate the~~
369 ~~existence of the two Florida Retirement System plans and the~~
370 ~~plan choice in the natural course of administering their~~
371 ~~personnel functions, using the educational materials supplied by~~
372 ~~the state board and the Department of Management Services.~~

373 (15) STATEMENT OF FIDUCIARY STANDARDS AND
374 RESPONSIBILITIES.—

375 (a) Investment of investment ~~defined contribution~~ plan
376 assets shall be made for the sole interest and exclusive purpose
377 of providing benefits to members and beneficiaries and defraying
378 reasonable expenses of administering the plan. The program's
379 assets shall be invested on behalf of the program members with
380 the care, skill, and diligence that a prudent person acting in a
381 like manner would undertake. The performance of the investment



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382 duties set forth in this paragraph shall comply with the
383 fiduciary standards set forth in the Employee Retirement Income
384 Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C). In case
385 of conflict with other provisions of law authorizing
386 investments, the investment and fiduciary standards set forth in
387 this subsection shall prevail.

388 (c) Subparagraph (8)(b)2. and paragraph (b) incorporate
389 the federal law concept of participant control, established by
390 regulations of the United States Department of Labor under s.
391 404(c) of the Employee Retirement Income Security Act of 1974
392 (ERISA). The purpose of this paragraph is to assist employers
393 and the state board in maintaining compliance with s. 404(c),
394 while avoiding unnecessary costs and eroding member benefits
395 under the investment plan. Pursuant to 29 C.F.R. s. 2550.404a-
396 5(d)(4) ~~2550.404c-1(b)(2)(i)(B)(1)(viii)~~, the state board or its
397 designated agents shall deliver to members of the investment
398 plan a copy of the prospectus most recently provided to the
399 plan, ~~and, pursuant to 29 C.F.R. s. 2550.404c-~~
400 ~~1(b)(2)(i)(B)(2)(ii), shall provide such members an opportunity~~
401 ~~to obtain this information, except that:~~

402 1. The requirement to deliver a prospectus shall be
403 satisfied by delivery of a fund profile or summary profile that
404 contains the information that would be included in a summary
405 prospectus as described by Rule 498 under the Securities Act of
406 1933, 17 C.F.R. s. 230.498. If the transaction fees, expense
407 information or other information provided by a mutual fund in
408 the prospectus does not reflect terms negotiated by the state
409 board or its designated agents, the requirement is satisfied by



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410 delivery of a separate document described by Rule 498

411 substituting accurate information; and

412 2. Delivery shall be effected if delivery is through
413 electronic means and the following standards are satisfied:

414 a. Electronically-delivered documents are prepared and
415 provided consistent with style, format, and content requirements
416 applicable to printed documents;

417 b. Each member is provided timely and adequate notice of
418 the documents that are to be delivered, and their significance,
419 and of the member's right to obtain a paper copy of such
420 documents free of charge;

421 c. Members have adequate access to the electronic
422 documents, at locations such as their worksites or public
423 facilities, and have the ability to convert the documents to
424 paper free of charge by the state board, and the board or its
425 designated agents take appropriate and reasonable measures to
426 ensure that the system for furnishing electronic documents
427 results in actual receipt. Members have provided consent to
428 receive information in electronic format, which consent may be
429 revoked; and

430 d. The state board, or its designated agent, actually
431 provides paper copies of the documents free of charge, upon
432 request.

433 3. The state board is not required to deliver a prospectus
434 or other information for the underlying investments available
435 through the self-directed brokerage account authorized by
436 paragraph (9) (h).



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437 Section 6. Subsection (3) of section 121.591, Florida
438 Statutes, is amended to read:

439 121.591 Payment of benefits.—Benefits may not be paid
440 under the Florida Retirement System Investment Plan unless the
441 member has terminated employment as provided in s.
442 121.021(39)(a) or is deceased and a proper application has been
443 filed as prescribed by the state board or the department.
444 Benefits, including employee contributions, are not payable
445 under the investment plan for employee hardships, unforeseeable
446 emergencies, loans, medical expenses, educational expenses,
447 purchase of a principal residence, payments necessary to prevent
448 eviction or foreclosure on an employee's principal residence, or
449 any other reason except a requested distribution for retirement,
450 a mandatory de minimis distribution authorized by the
451 administrator, or a required minimum distribution provided
452 pursuant to the Internal Revenue Code. The state board or
453 department, as appropriate, may cancel an application for
454 retirement benefits if the member or beneficiary fails to timely
455 provide the information and documents required by this chapter
456 and the rules of the state board and department. In accordance
457 with their respective responsibilities, the state board and the
458 department shall adopt rules establishing procedures for
459 application for retirement benefits and for the cancellation of
460 such application if the required information or documents are
461 not received. The state board and the department, as
462 appropriate, are authorized to cash out a de minimis account of
463 a member who has been terminated from Florida Retirement System
464 covered employment for a minimum of 6 calendar months. A de



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465 | minimis account is an account containing employer and employee
466 | contributions and accumulated earnings of not more than \$5,000
467 | made under the provisions of this chapter. Such cash-out must be
468 | a complete lump-sum liquidation of the account balance, subject
469 | to the provisions of the Internal Revenue Code, or a lump-sum
470 | direct rollover distribution paid directly to the custodian of
471 | an eligible retirement plan, as defined by the Internal Revenue
472 | Code, on behalf of the member. Any nonvested accumulations and
473 | associated service credit, including amounts transferred to the
474 | suspense account of the Florida Retirement System Investment
475 | Plan Trust Fund authorized under s. 121.4501(6), shall be
476 | forfeited upon payment of any vested benefit to a member or
477 | beneficiary, except for de minimis distributions or minimum
478 | required distributions as provided under this section. If any
479 | financial instrument issued for the payment of retirement
480 | benefits under this section is not presented for payment within
481 | 180 days after the last day of the month in which it was
482 | originally issued, the third-party administrator or other duly
483 | authorized agent of the state board shall cancel the instrument
484 | and credit the amount of the instrument to the suspense account
485 | of the Florida Retirement System Investment Plan Trust Fund
486 | authorized under s. 121.4501(6). Any amounts transferred to the
487 | suspense account are payable upon a proper application, not to
488 | include earnings thereon, as provided in this section, within 10
489 | years after the last day of the month in which the instrument
490 | was originally issued, after which time such amounts and any
491 | earnings attributable to employer contributions shall be
492 | forfeited. Any forfeited amounts are assets of the trust fund



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493 and are not subject to chapter 717.

494 (3) DEATH BENEFITS.—Under the Florida Retirement System
495 Investment Plan:

496 (a)1. Survivor benefits are payable in accordance with the
497 following terms and conditions:

498 a.1. To the extent vested, benefits are payable only to a
499 member's beneficiary or beneficiaries as designated by the
500 member as provided in s. 121.4501(20).

501 b.2. Benefits shall be paid by the third-party
502 administrator or designated approved providers in accordance
503 with the law, the contracts, and any applicable state board rule
504 or policy.

505 c.3. To receive benefits, the member must be deceased.

506 2.~~(b)~~ In the event of a member's death, all vested
507 accumulations as described in s. 121.4501(6), less withholding
508 taxes remitted to the Internal Revenue Service, shall be
509 distributed, as provided in paragraph (c) or as described in s.
510 121.4501(20), as if the member retired on the date of death. No
511 other death benefits are available for survivors of members,
512 except for benefits, or coverage for benefits, as are otherwise
513 provided by law or separately provided by the employer, at the
514 employer's discretion.

515 3.~~(e)~~ Upon receipt by the third-party administrator of a
516 properly executed application for distribution of benefits, the
517 total accumulated benefit is payable by the third-party
518 administrator to the member's surviving beneficiary or
519 beneficiaries, as:

520 a.1. A lump-sum distribution payable to the beneficiary or



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521 beneficiaries, or to the deceased member's estate;

522 b.2. An eligible rollover distribution, if permitted, on
523 behalf of the surviving spouse of a deceased member, whereby all
524 accrued benefits, plus interest and investment earnings, are
525 paid from the deceased member's account directly to the
526 custodian of an eligible retirement plan, as described in s.
527 402(c)(8)(B) of the Internal Revenue Code, on behalf of the
528 surviving spouse; or

529 c.3. A partial lump-sum payment whereby a portion of the
530 accrued benefit is paid to the deceased member's surviving
531 spouse or other designated beneficiaries, less withholding taxes
532 remitted to the Internal Revenue Service, and the remaining
533 amount is transferred directly to the custodian of an eligible
534 retirement plan, if permitted, as described in s. 402(c)(8)(B)
535 of the Internal Revenue Code, on behalf of the surviving spouse.
536 The proportions must be specified by the member or the surviving
537 beneficiary.

538 (b)1. Each employer participating in the Florida
539 Retirement System shall purchase a life insurance policy from a
540 state term contract for each member of the Special Risk Class of
541 the investment plan who is initially enrolled in the Florida
542 Retirement System on or after January 1, 2014.

543 2. The Department of Management Services shall procure a
544 life insurance product on a state term contract with the
545 following attributes:

546 a. The benefit must be limited to Special Risk Class
547 members who are killed in-the-line-of-duty.

548 b. The benefit must be equal to 10 times the employee's



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549 annual salary.

550 c. The benefit must provide for monthly benefit payments,
551 including interest, to be paid to the designated beneficiary or
552 beneficiaries over a 20-year period.

553 d. The product must be guaranteed issue.

554 e. The product must provide level premium rates for the
555 term of the policy.

556 f. Any administrative fees shall be the responsibility of
557 the employer.

558 3. Survivor benefits provided by the life insurance policy
559 are payable in addition to the survivor benefit provided under
560 paragraph (a).

561
562 This subsection ~~paragraph~~ does not abrogate other applicable
563 provisions of state or federal law providing for payment of
564 death benefits.

565 Section 7. Section 238.072, Florida Statutes, is amended
566 to read:

567 238.072 Special service provisions for extension
568 personnel.—All state and county cooperative extension personnel
569 holding appointments by the United States Department of
570 Agriculture for extension work in agriculture and home economics
571 in this state who are joint representatives of the University of
572 Florida and the United States Department of Agriculture, as
573 provided in s. 121.051(8) ~~121.051(7)~~, who are members of the
574 Teachers' Retirement System, chapter 238, and who are prohibited
575 from transferring to and participating in the Florida Retirement
576 System, chapter 121, may retire with full benefits upon



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577 completion of 30 years of creditable service and shall be
578 considered to have attained normal retirement age under this
579 chapter, any law to the contrary notwithstanding. In order to
580 comply with the provisions of s. 14, Art. X of the State
581 Constitution, any liability accruing to the Florida Retirement
582 System Trust Fund as a result of the provisions of this section
583 shall be paid on an annual basis from the General Revenue Fund.

584 Section 8. Subsection (11) of section 413.051, Florida
585 Statutes, is amended to read:

586 413.051 Eligible blind persons; operation of vending
587 stands.—

588 (11) Effective July 1, 1996, blind licensees who remain
589 members of the Florida Retirement System pursuant to s.
590 121.051(7)(b)1. ~~121.051(6)(b)1.~~ shall pay any unappropriated
591 retirement costs from their net profits or from program income.
592 Within 30 days after the effective date of this act, each blind
593 licensee who is eligible to maintain membership in the Florida
594 Retirement System under s. 121.051(7)(b)1. ~~121.051(6)(b)1.~~, but
595 who elects to withdraw from the system as provided in s.
596 121.051(7)(b)3. ~~121.051(6)(b)3.~~, must, on or before July 31,
597 1996, notify the Division of Blind Services and the Department
598 of Management Services in writing of his or her election to
599 withdraw. Failure to timely notify the divisions shall be deemed
600 a decision to remain a compulsory member of the Florida
601 Retirement System. However, if, at any time after July 1, 1996,
602 sufficient funds are not paid by a blind licensee to cover the
603 required contribution to the Florida Retirement System, that
604 blind licensee shall become ineligible to participate in the



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605 Florida Retirement System on the last day of the first month for
606 which no contribution is made or the amount contributed is
607 insufficient to cover the required contribution. For any blind
608 licensee who becomes ineligible to participate in the Florida
609 Retirement System as described in this subsection, no creditable
610 service shall be earned under the Florida Retirement System for
611 any period following the month that retirement contributions
612 ceased to be reported. However, any such person may participate
613 in the Florida Retirement System in the future if employed by a
614 participating employer in a covered position.

615 Section 9. (1) Effective January 1, 2014, in order to
616 fund the benefit changes provided in this act, the required
617 employer contribution rates for the unfunded actuarial liability
618 of the Florida Retirement System established in section
619 121.71(5), Florida Statute, shall be adjusted as follows:

620 (a) Elected Officers' Class.—Legislators, the Governor,
621 the Lieutenant Governor, Cabinet Officers, State Attorneys, and
622 Public Defenders shall be increased by 0.02 percentage points.

623 (b) Elected Officers' Class.—County Elected Officers shall
624 be increased by 0.02 percentage points.

625 (c) Senior Management Service Class.—The Senior Management
626 Service Class shall be increased by 0.01 percentage points.

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D I R E C T O R Y A M E N D M E N T



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633 Remove lines 451-452 and insert:
634 paragraphs (a), (b), (c), and (h) of subsection (10), and
635 paragraphs (a) and (c) of subsection (15) of section

636

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

641

Remove lines 51-54 and insert:

642

amending s. 121.591, F.S.; providing an additional death benefit

643

to specified members of the Special Risk Class; amending ss.

644

238.072 and 413.051, F.S.;

645



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Brodeur offered the following:

Amendment (with title amendment)

• Between lines 1558 and 1559, insert:

6 Section 10. Except for sections 1-3, which apply only to
 7 members of the State Community College System Optional
 8 Retirement Program, Elected Officers' Class, and the Senior
 9 Management Service Class, nothing in this act modifies or limits
 10 any retirement benefit or plan choice currently available to
 11 members who first enrolled in the Florida Retirement System
 12 before January 1, 2014.

16 -----
 17 **T I T L E A M E N D M E N T**

18 Remove line 60 and insert:



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19 | does not modify or limit benefits available to current members
20 | except as specified; providing that the act fulfills an
21 | important state interest; requiring the

22