

DE 91-06 - October 21, 1991

Contributions and Expenditures by Political Committees, Committees of Continuous Existence, and Individuals; Limitations on Contributions Accepted from Political Party Sections 106.03, 106.04, and 106.08, F.S., as Amended by Ch. 91-107, Laws of Fla.

TO: The Honorable Mary W. Morgan, Supervisor of Elections, Collier County, Collier Government Complex, 3301 Tamiami Trail East, Naples, Florida 33962

Prepared by: Division of Elections

This is in reference to your request for an advisory opinion on campaign contributions. You are the Collier County Supervisor of Elections, and the Division of Elections has authority under Section 106.23(2), Florida Statutes, to issue advisory opinions to you relating to the Florida Election Code, Chapters 97-106, Florida Statutes. You ask the following questions:

- (1) Can a group of persons form a political committee pursuant to Section 106.03 or 106.04, Florida Statutes, for the purpose of bringing about the election of a single candidate to a countywide or less than countywide office? If the answer to this question is yes, what is the maximum amount of money they can spend on such candidate?
- (2) What is the maximum amount of money that a single individual can contribute to a county political party executive committee?
- (3) Is the \$50,000 cap on contributions a candidate may accept from national, state, and county executive committees of a political party, provided in Section 106.08, Florida Statutes, as amended by Chapter 91-107, Laws of Florida, to be interpreted as a \$50,000 cap for each level of the executive committee or a \$50,000 aggregate amount?

Your questions are answered, respectively, as follows:

1. A group of persons may form a political committee pursuant to Section 106.03, Florida Statutes, or a committee of continuous existence pursuant to Section 106.04, Florida Statutes, for the purpose of bringing about the election of a single candidate to a countywide or less than countywide office. Direct contributions of such committees to candidates or other committees are limited to \$1,000 under present law; beginning January 1, 1992, such contributions will be limited to \$500. However, there is no limitation on the amount of independent expenditures which may be made by such committees.
2. There are no limits set by Florida law for contributions to a county political party executive committee.
3. The \$50,000 cap on contributions a candidate may accept from national, state, and county

executive committees of a political party is cumulative, and represents an aggregate amount for all levels of the party.

Your first question asks whether a group of people may form a political committee pursuant to Section 106.03, Florida Statutes, or a committee of continuous existence under Section 106.04, Florida Statutes, for the purpose of bringing about the election of a single candidate to a countywide or less than countywide office.

"Political committee" is defined by Section 106.011(1), Florida Statutes, as:

[A] combination of two or more individuals...the primary or incidental purpose of which is to support or oppose any candidate, issue, or political party, which accepts contributions or makes expenditures during a calendar year in an aggregate amount in excess of \$500....

Thus, a group of people who accepts contributions or makes expenditures of more than \$500 per calendar year for the purpose of bringing about the election of a candidate would fall under the definition of a political committee. Moreover, if the group organizes and operates in accordance with a written charter or set of by-laws, receives at least 25 percent of its income from regularly paid dues or assessments as provided in its charter or by-laws and otherwise complies with the provisions of Section 106.04, Florida Statutes, the committee may register and be certified as a committee of continuous existence under Section 106.04, Florida Statutes.

Therefore, a group of people who is interested in bringing about the election of a single candidate to a countywide or less than a countywide office may form a political committee pursuant to Section 106.03, Florida Statutes, or be certified as a committee of continuous existence in accordance with the provision of Section 106.04, Florida Statutes.

Section 106.08, Florida Statutes, currently provides that contributions by individuals or committees to candidates or political committees are limited to \$1,000. Under the amendments to this section provided in Chapter 91-107, Laws of Florida, effective January 1, 1992, this limit will be reduced to \$500. These limitations, however, are not applicable to independent expenditures.

The Florida Supreme Court in Winn Dixie Stores, Inc. v. State of Florida, 408 So.2d 211 (Fla. 1981), held that this provision does apply to independent expenditures. As a result, there currently is no limit on expenditures which fall within the definition of an independent expenditure.

Independent expenditures are defined by Section 106.011(5), Florida Statutes, as:

[A]n expenditure by a person for the purpose of advocating the election or defeat of a candidate or the approval or objection 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.

As to the maximum amount for contributions by a single individual to political parties, Section 106.08

(1), Florida Statutes, provides that the contribution limits in that section do not apply to political parties. Therefore, the amount an individual may contribute to a political party is unlimited.

Finally, you ask whether the \$50,000 cap on contributions a candidate may accept from national, state, and county executive committees of a political party, pursuant to Section 106.08, Florida Statutes, as amended by Chapter 91-107, Laws of Florida, places a cap on the aggregate contributions of all levels of the party executive committee or provides a cap for contributions of each level of the party.

Section 11 of Chapter 91-107, Laws of Florida, among other things, amends Section 106.08, Florida Statutes, to provide that:

[A] candidate may not accept contributions from national, state, and county executive committees of a political party, which contributions in the aggregate exceed \$50,000....
(Emphasis added.)

This language provides an aggregate amount for all levels of the party. Therefore, if the national level of the party contributes \$50,000 to a candidate, the candidate would not be able to accept further contributions from the party at any level.

SUMMARY

A group of persons may form a political committee pursuant to Section 106.03, Florida Statutes, or a committee of continuous existence pursuant to Section 106.04, Florida Statutes, for the purpose of bringing about the election of a single candidate to a countywide or less than countywide office. The direct contributions of such a committee to candidates or committees is limited to \$1,000 under present law; effective January 1, 1992 such limit will be \$500. However, there is no limitation on the amount of independent expenditures which may be made by a committee. There also is no limit on contributions an individual may make to a county political party executive committee. The \$50,000 cap on contributions a candidate may accept from national, state, or county executive committees of a political party is an aggregate amount.