IN THE SUPREME COURT OF FLORIDA

REPUBLICAN PARTY OF FLORIDA, EXECUTIVE COMMITTEE, REPUBLICAN PARTY OF FLORIDA, TOM SLADE, individually, and TOM SLADE, Chairman, Republican State Executive Committee of Florida, Plaintiffs/Appellants, vs. JIM SMITH, Secretary of State, State of Florida, TOM GALLAGHER, Insurance Commissioner/ Treasurer, State of Florida, GERALD LEWIS, Comptroller, State of Florida and DOROTHY W. JOYCE, Director, Division of Elections, Defendants/Appellees, and BILL JONES, a taxpayer in the State of Florida and Executive Director of Common Cause/Florida. Intervenor/Appellee.	)	Case No. 83,249

BRIEF AMICI CURIAE OF
CHESTERFIELD SMITH AND RAYMOND EHRLICH
IN SUPPORT OF APPELLEES

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STATEMENT OF THE CASE AND FACTS

Amici adopt the statement of the case and facts of the Appellants.

SUMMARY OF ARGUMENT

Florida's Election Campaign Financing Act authorizes a periodic appropriation of funds from general revenues, if necessary, to provide public funding for qualifying candidates seeking election to statewide offices. The Act represents the Florida Legislature's intent that public funds be available to fulfill the Act's worthy objectives such as equalizing candidates' financial bases, increasing participation in the electoral process, and reducing the influence of "special interests."

The authority to appropriate funds is the dominion of the legislative branch which has the exclusive power to decide "how, when, and for what purpose the public funds shall be applied in carrying on the government" subject only to the Florida and federal constitutions. This Court has deferred to the Legislature's intent on appropriations matters because the judicial branch "should be slow to restrict the legislative judgment in making appropriations." As such, the Legislature has considerable latitude in appropriating funds through appropriations acts, specific appropriation acts, or, as in this case, the enactment of a substantive act that also includes a continuing appropriation. Florida's Constitution and this Court's precedents clearly recognize the propriety of each of these methods of appropriating public funds.

Due to its deference to the Legislature, this Court has never required the use of the term "appropriate" in legislative acts that appropriate funds. Rather, this Court has specifically held that

legislative acts "designating public moneys for special governmental purposes have been held to be appropriations, notwithstanding the word 'appropriation' is not used." The use of words demonstrating the Legislature's intent to appropriate funds is sufficient. Likewise, this Court has upheld continuing appropriations despite the lack of the word "appropriation" in the legislative acts.

In this regard, prior to 1991 the sole source of funds for the Act was general revenues which were "appropriated" under the Act. The use of the word "transferred" in the 1991 modifications to the Act must be construed in the context of the Act's simultaneous authorization of new funding sources for the Election Campaign Trust Fund. The Legislature intended that general revenues continue to be available, if necessary, should these new sources of funds be insufficient. The Legislature's intent to appropriate general revenue funds in this manner should not be thwarted based on semantic arguments over its use of the word "transferred" versus "appropriate" under these circumstances.

Finally, the indefiniteness of the amount of an appropriation does not invalidate it. In some cases, the Legislature simply cannot know or predict with accuracy the total amount of funds that will ultimately be required. In these situations, the lack of a definite, sum certain does not invalidate the Legislature's intent to appropriate funds. Instead, if the appropriation can ultimately be reduced to a sum certain based on a formula or other computation method, the appropriation should be upheld.

ARGUMENT

I. FLORIDA'S ELECTION CAMPAIGN FINANCING ACT AUTHORIZES A CONTINUAL APPROPRIATION OF GENERAL REVENUE FUNDS

Florida is one of a number of states that have adopted methods of publicly financing election campaigns.[1] The sole legislative purpose of Florida's Election Campaign Financing Act[2] is to make public funding available to candidates for statewide office under specified circumstances, conditions and limitations. The availability of public funding equalizes candidates' financial bases, increases participation in the electoral process, and reduces corruption and the influence of "special interests."[3] Public funding is the Act's raison d'etre and the means for

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[1] Herbert E. Alexander, Eugene R. Goss, & Jeffrey A. Schwartz, Public Financing of State Elections: A Data Book on Tax-Assisted Funding of Political Parties and Candidates in Twenty-Four States (Citizens' Research Foundation, University of Southern California, 1992) (hereafter CRF Data Book). State tax-assisted funding for election campaigns originated in 1973, and as of 1992, twenty-four states had enacted some form of public financing. Id. at 3. The two primary systems are tax checkoffs and tax add-ons. The former permits taxpayers to check off a box on their state income tax returns designating for an election fund a few tax dollars they would otherwise pay. The latter permits taxpayers to add a few dollars onto their tax returns. Because Florida does not have a state income tax and cannot use checkoff or add-on systems, its Election Campaign Fund was originally sustained solely through appropriations from general revenues. Id. at 33.

[2] Chapter 86-276, Laws of Florida, established the Election Campaign Financing Act. Portions of the Act were subsequently amended by Chapters 89-256, 90-315 and 91-107, Laws of Florida.

[3] Section 106.31, Fla. Stat. (1993) (legislative intent of Act); CRF Data Book, supra note 1, at 5. In addressing the Act's legislative intent, this Court has stated that "preserving the integrity of the electoral process by supporting candidates who are free from the influence of special interest money and, thus, removing corruption and the appearance of corruption from politics is a compelling interest" that "is not in question." State v. Republican Party of Florida, 604 So. 2d 477, 480 (Fla. 1992).

achieving these core objectives. Without public funding, the Act becomes an empty vessel.

Two fundamental issues in this appeal are whether the Legislature has adequately expressed its intention to fund the Act, and, if so, whether a continuing appropriation was intended. Amici will limit their brief to these issues. They respectfully submit that Florida's Election Campaign Financing Act represents the intent of the Florida Legislature that public funds be appropriated to fulfill the Act's worthy purposes.[4]

A. The Meaning of "Appropriation" Under the Florida Constitution Is Controlling

The validity of the method of appropriating funds contained in Florida's Election Campaign Financing Act must ultimately be based on principles of Florida constitutional law. In funding a state program, the Florida Legislature first enacts substantive legislation that creates and defines the program's purpose and structure, and next authorizes financing for the program via an "appropriation." This latter step is governed by Article VII, Section 1(c) of the Florida Constitution, which provides: "No money

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[4] A few courts and a number of commentators have discussed the goals of public financing of candidates. See Buckley v. Valeo, 424 U.S. 1, 85-110 (1976) (discussing public financing of presidential campaigns); Advisory Opinion of Constitutionality of 1975 PA 227, 396 Mich. 465, 242 N.W.2d 3 (Mich. 1976) (upholding public purpose of election campaign financing); see generally Tom R. Moore & Richard D. La Belle III, Public Financing of Elections: New Proposals to Meet New Obstacles, 13 Fla. St. L. Rev. 863 (1985); John M. Sylvester, Equalizing Candidates' Opportunities for Expression, 51 Geo. Wash. L. Rev. 113 (1982).

shall be drawn from the treasury except in pursuance of appropriation made by law."[5]

Under Article VII, Section 1(c), an "appropriation" can take a number of forms. An appropriation can be a line-item in the annual general appropriations act.[6] A specific appropriation may be included in a specific appropriations act or in the substantive act itself.[7] A substantive act may also contain an appropriation, perhaps on an ongoing basis (i.e., a continuing appropriation). Other types of appropriations are possible[8] and, as discussed in Section I(B) of this Brief, the Legislature has considerable leeway in expressing its intent to appropriate funds.

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[5] Appropriations differ from disbursements which are the issuance of appropriated funds to meet the objectives of the appropriations. State ex rel. Kurz v. Lee, 121 Fla. 360, 163 So. 859, 868 (Fla. 1935).

[6] The General Appropriations Bill is the "big bill" of each legislative session and includes most but not all appropriations "so legislators and others may have a reasonably complete overview of state spending." Allen Morris, The Language of Lawmaking in Florida III, 36 (Florida House of Representatives, 1991).

[7] For example, Chapter 72-317, Laws of Florida, established an environmental land and water management program. Section 11 of the act stated that, "A sum of one hundred fifty thousand dollars ($150,000) is appropriated from the general revenue fund" for the purpose of paying salaries and other administrative expenses necessary to carry out the act. This type of appropriation can also be characterized as a "lump-sum appropriation." Section 216.011(1)(u), Florida Statutes (1993) ("lump-sum appropriations" are "funds appropriated to accomplish a specific activity or project which must be transferred to one or more appropriation categories for expenditure.").

[8] See Flack v. Graham, 453 So. 2d 819 (Fla. 1984) ("constitutional appropriation" of any available moneys in state treasury recognized where all legislatively appropriated funds disbursed and no remaining funds available).

Two points are evident. First, the Election Campaign Financing Act is a substantive act that happens to include an appropriation. In Thompson v. Graham, 481 So. 2d 1212 (Fla. 1985), this Court made a clear distinction between a substantive act that happens to contain an appropriation and an "appropriation act."

> The term "appropriation act" obviously would not include an act of general legislation and a bill proposing such an act is not converted into an appropriation bill simply because it has engrafted upon it a section making an appropriation. An appropriation bill is one the primary and specific aim of which is to make appropriations of money from the public treasury.

Id. at 1214 (quoting Bengzon v. Sec'ty of Justice, 299 U.S. 410, 413 (1937)). Similarly, Article III, Section 19 of the Florida Constitution uses the three phrases "general appropriations bill," "specific appropriations bill," and "substantive bills containing appropriations" to differentiate between types of appropriations.[9]

Based upon these definitions, the Election Campaign Financing Act is not an "appropriations act" or a "general appropriations act" subject to certain constitutional provisions related to gubernatorial vetoes[10] and various provisions in the state budgeting, planning and appropriation process.[11] Instead, it is

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[9] Art. III, Section 19, Fla. Const. (1993).

[10] Article III, Section 8(a) of the Florida Constitution relates to Executive approval and vetoes and provides, in relevant part: "In all cases except general appropriation bills, the veto shall extend to the entire bill. The governor may veto any specific appropriation in a general appropriation bill, but may not veto any qualification or restriction without also vetoing the appropriation to which it relates."

[11] Article III, Section 19, of the Florida Constitution, which was adopted in 1992, sets forth various requirements that apply to "general appropriation bills," "appropriations bills" and "specific

unquestionably an act of substantive legislation that also contains a funding mechanism (i.e., the continuing appropriation at issue).[12]

Next, the importance of this distinction is that the term "appropriation" has a statutory definition upon which this Court should place little weight in deciding whether the Election Campaign Financing Act constitutes a proper appropriation of funds. Section 216.011(1)(b), Florida Statutes, defines an "appropriation" as "a legal authorization to make expenditures for specific purposes within the amounts authorized in the appropriations act." (Emphasis added). The emphasized language clearly limits the statutory definition of "appropriation" to only those contained in an "appropriation act."[13] Because the Election Campaign Financing

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appropriation bills." As discussed in note 12, it also sets forth certain provisions related to "substantive bills containing appropriations."

[12] On July 1, 1994, the following provision of Article III, Section 19(b), Florida Constitution, becomes effective:

> Substantive bills containing appropriations shall also be subject to the itemization requirement mandated under this provision and shall be subject to the governor's specific appropriation veto power described in Article III, Section 8.

Because there are two "itemization" requirements under subsection (b), one related to format and one related to specific appropriations over $1 million, it is unclear to which requirement this provision refers. Amici suggest that this ambiguity should be resolved in a way that accords the Legislature the greatest discretion in its appropriation process. See also note 17 infra.

[13] Section 216.011(1)(c), Florida Statutes (1993) sets forth the definition of "appropriation act" as:

> the authorization of the Legislature, based upon legislative budgets or based upon legislative findings of

Act is not an "appropriations act" and it is not contained within an "appropriations act," the definition of "appropriation" in Section 216.011(1)(b) is not controlling in this proceeding. Instead, the broader concepts of what constitutes an appropriation under Florida's Constitution must guide this Court, as discussed in the next Section.

B. The Legislature Intended That Its Enactment Of The Election Campaign Financing Act Appropriate Funds, If Necessary, From General Revenues.

A key issue is whether the Legislature intended that Florida's Election Campaign Financing Act, Sections 106.30-106.36, Florida Statutes, establish an appropriation of public funds consistent with applicable constitutional and statutory provisions. Amici maintain that the trial court properly interpreted the Election Campaign Financing Act as establishing the Legislature's intent to appropriate funds, if necessary, on a periodic basis from the General Revenue Fund.

The judiciary has long recognized that the appropriations process is the dominion of the legislative branch. In Chiles v. Children A, B, C, D, E, & F, 589 So. 2d 260 (Fla. 1991), this Court stated:

> Based on all these constitutional provisions [which include Art. VII, Section 1(c)], the power to appropriate state funds is legislative and is to be exercised only

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> the necessity for an authorization when no legislative budget is filed, for the expenditure of amounts of money by an agency, the judicial branch, and the legislative branch for stated purposes in the performance of the functions it is authorized by law to perform.

through duly enacted statutes. As we stated in State ex rel. Kurz v. Lee:

> The object of a constitutional provision requiring an appropriation made by law as the authority to withdraw money from the state treasury is to prevent the expenditure of the public funds already in the treasury, or potentially therein from tax sources provided to raise it, without the consent of the public given by their representatives in formal legislative acts. Such a provision secures to the Legislature (except where the Constitution controls to the contrary) the exclusive power of deciding how, when, and for what purpose the public funds shall be applied in carrying on the government.

Id. at 265 (citation omitted) (emphasis added by this Court in Chiles). This Court has clearly stated that judicial deference to the Legislature's intent is particularly appropriate on matters related to appropriations. In Re Opinion to the Governor, 239 So. 2d 1, 9 (Fla. 1970) (courts "should be slow to restrict the legislative judgment in making appropriations . . . ."); State ex rel. Caldwell v. Lee, 157 Fla. 773, 27 So. 2d 84, 87 (Fla. 1946) ("So long as [the appropriation] is for a lawful purpose, the Legislature has absolute power over the public purse."). In addition, this Court must resolve every reasonable doubt about the constitutionality of a legislative enactment in favor of its validity and in a manner that will harmonize it with other portions of the Florida Constitution. Department of Law Enforcement v. Real Property, 588 So. 2d 957, 961 (Fla. 1991); Martinez v. Scanlan, 582 So. 2d 1167, 1172 (Fla. 1991); Amos v. Mathews, 99 Fla. 115, 126 So. 308 (Fla. 1930).

These principles require that the Legislature have significant leeway in the appropriation process and be permitted to indicate

its intent to finance programs in different ways. A common method is for the Legislature to state its intention that moneys be "appropriated" for a particular purpose. For example, Florida's Cancer Control and Research Act provides that financing include "funds appropriated therefor from the General Revenue Fund[.]" Section 240.5121, Fla. Stat. (1993). This method is perhaps the most direct method of indicating an intent to appropriate funds, but, as discussed below, it is not constitutionally or statutorily mandated. Another method is for the Legislature to include a specific appropriation in an act of general legislation. For instance, under Florida's Public Guardianship Act, Section 6 of Chapter 86-120 (the Act's enabling legislation) provides: "There is appropriated, from the General Revenue Fund, $163,760 and 6 positions to fund a pilot program in each of the Second and Seventeenth Judicial Circuits." In both of these situations, the Legislative intent to appropriate funds to finance the respective programs is evident.

This Court, however, has never accorded talismanic meaning to the use (or non-use) of the term "appropriate" in determining whether an "appropriation" was intended by the Legislature. Instead, the exact opposite is true as stated in State ex rel. Bonsteel v. Allen, 83 Fla. 214, 91 So. 104 (Fla. 1922).

> Statutes setting apart or designating public moneys for special governmental purposes have been held to be appropriations, notwithstanding the word "appropriation" is not used.

Id. at 106. For this reason, the Legislature may state its intent to finance programs in many ways that use terms other than

"appropriate." For example, in Thompson v. Graham, 481 So. 2d 1212 (Fla. 1985), this Court recently addressed whether an act "authorizing and providing funding" for public educational projects constituted an appropriation. This Court concluded that under the context presented, the phrase "'authorizing and providing funding' is simply another way of saying 'appropriating'" funding. Id. at 1214; see also State v. Southern Land & Timber Co., 45 Fla. 374, 33 So. 999, 1003 (Fla. 1903) (tax revenues constituting special fund for public health purposes an appropriation despite no use of term "appropriate" in applicable section). Courts in other jurisdictions hold similarly. See, e.g., Riley v. Johnson, 219 Cal. 513, 27 P.2d 760, 762 (Cal. 1933) ("No particular form is required for an appropriation. In determining whether an appropriation has been made, the intention of the Legislature is to be ascertained from the entire statute.").

These cases establish that the Legislature has significant latitude in expressing its intent to appropriate funds. In a similar manner, this Court has also broadly interpreted the phrase "continuing appropriation" under the Florida Constitution. In Mayo v. Matthews, 112 Fla. 680, 150 So. 900 (Fla. 1933), this Court stated that the establishment of a "General Inspection Fund" to pay "all expenses incurred in the enforcement of" an inspection law "is in legal effect a continuing appropriation." Id. at 900. Notably, the "continuing appropriation" in Matthews did not use the term "appropriate."

Furthermore, the Election Campaign Financing Act's use of the term "transferred" to indicate an intent to appropriate funds is not without a common understanding in the context used. Amici suggest that the context in which the term "transferred" is used in Section 106.32(1) differs from those situations involving limited "transfers" of existing appropriations under Section 216.292, Florida Statutes (1993). The former use is in the context of appropriating funds in the first instance, while the latter involves certain limited transfers of funds already appropriated. As such, the "transfer" provisions of Section 216.292 provide little assistance in determining whether the Legislature intended an appropriation from the outset.

In addition, the Legislature's 1991 modification of the language in Section 106.032(1) from "the Legislature shall appropriate" to "additional funds shall be transferred" does not necessarily support the conclusion that the Legislature abandoned its intent to appropriate funds. Instead, these modifications must be viewed in light of other provisions in Chapter 91-107. Viewed in context, the use of the term "transferred" can be reconciled with the Legislature's continued intent to fund the Act.

Prior to the enactment of Chapter 91-107, the Election Campaign Financing Trust Fund had a single source of funds -- general revenues.[14] The Act provided at that time as follows:

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[14] As the legislative history indicates, the Legislature appropriated $3 million for the Trust Fund in 1986 which amount was later returned to the General Revenue Fund. Joint Stipulation (R 15, Ex. 2 at 2).

> Each year in which a general election is to be held for the election of Governor and Cabinet, the Legislature shall appropriate to the Election Campaign Financing Trust Fund from general revenue an amount sufficient to fund qualifying candidates pursuant to the provisions of [this Act]. In the event such appropriated moneys are insufficient to fully fund qualifying candidates, available funds shall be distributed on a proportional basis based on total available funds.

Chapter 86-276, Laws of Florida. This language was used because all public funding under the Act had to come from general revenues.

Chapter 91-107, however, provided for additional sources of funds[15] requiring the Legislature to amend the language of Section 106.32(1) to account for these changes. As a result, the Legislature amended the language of Section 106.32(a) to state:

> If necessary, each year in which a general election is to be held for the election of Governor and Cabinet, additional funds shall be transferred to the Election Campaign Financing Trust Fund from general revenue in an amount sufficient to fund qualifying candidates pursuant to the provisions of [this Act].

Chapter 91-107, Laws of Florida. This new language remains consistent with a continued Legislative intent to appropriate funds from general revenues should the new sources of moneys for the Election Campaign Financing Trust Fund be inadequate. The Legislature could have used the word "appropriate" but its intent

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[15] The additional sources of moneys are: (1) portions of filing fees under Section 99.092 (2) portions of municipal candidate qualifying fees required by Section 99.093, (3) portions of filing fees for candidates for judicial office required by Section 105.031, (4) an assessment on contributions to committees of continuous existence under Section 106.04(4)(b)2, (5) an assessment on contributions to candidates under Section 106.07(3)(b), and (6) an assessment on contributions to political parties under Section 106.29(1)(b). This Court has ruled that the latter three sources are unconstitutional. State v. Republican Party of Florida, 604 So. 2d 477 (Fla. 1992).

to appropriate funds must not be frustrated simply because the language used "is not well chosen." Dickinson v. Bradley, 298 So. 2d 352, 354 (Fla. 1974) (upholding appropriation of funds for claim bill despite "inartful draftsmanship").

The question of legislative intent to fund an enactment has arisen in this Court before in a somewhat analogous situation. In re Opinion of the Justices, 145 Fla. 375, 199 So. 350 (Fla. 1940). In Justices, the size of this Court had been increased by constitutional amendment from six to seven Justices, but the budget and appropriation for the Court did not account for (and was therefore insufficient to pay) the new Justice's salary. Id. at 352. The annual salary of Justices at that time was fixed at $7,500 and constituted a continuing appropriation. The issue that Governor Cone presented to this Court was whether he should sign any warrants to pay the new Justice's salary, and, if so, from what fund or appropriation the warrants should be drawn. Id.

This Court held that the Governor should sign such warrants and that the new Justice's salary should be payable "from any sources in the State Treasury not otherwise appropriated." Id. This Court reasoned that:

> The legislature which submitted the amendment for a seventh Justice, recently approved, passed the latter act and must have had a seventh Justice in contemplation.

Id. Further, this Court reasoned that compensation for the new Justice's secretary was also within the Legislature's contemplation.

> [The salary for the new Justice's secretary] is a contingency that the adoption of the amendment for a

> Seventh Justice created and the people must have had in mind when they approved that amendment, as they made it effective when approved.

Id. This Court, therefore, directed that payment for the secretary's salary be paid from the Contingent appropriation for the Supreme Court. Id. The important point in Justices is that this Court looked to the substance of what the Legislature contemplated in the general enactment creating a seventh Justice. Because there were sufficient indications of legislative intent to establish and pay the seventh Justice, this Court had little difficulty in concluding that funding for the new position was intended.

There is also some evidence in the record, which appears to be unrebutted, that indicates that the Legislature intended to appropriate funding on a periodic basis from the General Revenue Fund. For instance, the legislative history, albeit it somewhat scant, supports this conclusion.[16] Further, the affidavit of the Director, Division of Accounting and Auditing, Department of Banking and Finance expressing the official view that the Office of the Comptroller has determined that Section 106.32 is a legislative appropriation should be accorded weight. State v. Southern Land & Timber Co., 45 Fla. 374, 33 So. 999, 1003 (Fla. 1903) (upholding statute as an appropriation, in part, because of the "practical

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[16] The transcript of the House Conference Committee Report, April 30, 1991, contains the discussion between Representatives Goode and Stone that funding under the Election Campaign Financing Act would be provided from general revenues.

construction placed upon [language of statute] by administrative officers of the state").

A final point is that the Legislature may express its intent to appropriate funds for a program despite not knowing in advance the precise total amount of funds that will ultimately be needed.[17] For example, the Retirement System for State Justices and Judges provides that funds are "appropriated out of any funds in the General Revenue Funds in the State Treasury not otherwise appropriated a sufficient amount to meet the requirements of this section." Section 123.02, Fla. Stat. (1993). The lack of a specific, definite, sum certain for the System does not invalidate Section 123.02, nor does it invalidate the method of appropriating funds contained in the Election Campaign Financing Act. This Court, as well as courts in other jurisdictions,[18] has upheld

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[17] Under the Act, an estimate of the amount of funding that may be necessary from general revenues would be speculative, but the amount can be calculated with mathematical precision after the number of candidates and their respective amounts of matching funds are determined. For this reason, the Legislature cannot estimate or "itemize" the amount of this type of appropriation in advance such that the $1 million itemization requirement of Article III, Section 19(b) is inapplicable. Amici suggest that because there is significant uncertainty which of the two "itemization" requirements in Article III, Section 19(b), if any, applies to the Act, see supra note 12, this Court should not impose upon the Legislature the infeasible act of predicting and "itemizing" the amount of funds to be appropriated.

[18] See Wells v. Heath, 274 Ark. 45, 622 S.W.2d 163, 163 (Ark. 1981) (legislature's authorization to use moneys is not unconstitutional because "the sum appropriated is capable of ascertainment by mathematical calculation, and therefore it is definite and certain within the meaning of [a provision of Arkansas' Constitution that corresponds to its Florida counterpart]."). Riley v. Johnson, 219 Cal. 513, 27 P.2d 760 (Cal. 1933). In Riley, the California Supreme Court held that an appropriation is not void for uncertainty simply because "the exact

appropriations that rely on formulas or other methods of computation that reduce the appropriations to sums certain. See, e.g., State ex rel. Caldwell v. Lee, 157 Fla. 773, 27 So. 2d 84, 87 (Fla. 1946) ("indefiniteness of the amount appropriated" does not invalidate act).

CONCLUSION

Based upon the authorities cited in this Brief, Florida's Election Campaign Financing Act clearly represents the intent of the Florida Legislature that public funds be appropriated to fulfill the Act's worthy purposes.

Respectfully submitted,

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amount thus appropriated cannot now be ascertained." 27 P.2d at 762. The Court held that an appropriation of "unapplied moneys in the general fund" was limited both by the amount of funds requiring the issuance of warrants and the amount of unapplied moneys available. Further, the application of a "mathematical formula" rendered the appropriation "sufficiently certain." Id.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by hand delivery to: Gerald B. Curington, Assistant Attorney General, Office of the Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399-1050, Richard C. McFarlain, Charles A. Stampelos, and Harold R. Mardenborough, McFarlain, Wiley, Cassedy & Jones, P.A., 215 S. Monroe Street, Suite 600, Tallahassee, Florida, 32301-1894, and Bill L. Bryant, Katz, Kutter, Haigler, Alderman, Marks & Bryant, P.A., 106 E. College Avenue, Tallahassee, Florida 32301, and by Federal Express to Carol A. Licko, Thomson, Muraro, Razook & Hart, P.A., Suite 1700, One Southeast Third Avenue, Miami, Florida, 33131, this 31st day of March, 1994.

Attorney

JAX-90405.2