

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 301 Financial Disclosures
SPONSOR(S): Public Integrity & Elections Committee, Roach
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 510

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee	16 Y, 0 N, As CS	Roy	Rubottom
2) Local Administration & Veterans Affairs Subcommittee	17 Y, 0 N	Leshko	Miller
3) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Constitution presently requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests. General law requires certain other public officers to file Form 6. Another, less detailed disclosure form, referred to as Form 1, must be filed by specified local officers including all officers, other than constitutional officers, holding elected positions in any political subdivision of the state as well as specified appointive officers, specified state officers, and employees as well as persons seeking to qualify as candidates for state or local office.

CS HB 301 would require elected members of municipal governing bodies, mayors, city commissioners and municipal and county managers to annually disclose their financial interests by filing a full and public disclosure of financial interest form referred to as Form 6 beginning in 2023. CS HB 301 also exempts local officers required to file Form 6 from the present requirement to file Form 1.

Under the Florida Election Code¹ (Election Code), candidates must file Form 6 or Form 1 with their qualification papers filed with the appropriate election officer. Candidates who are subject to an annual filing requirement may file a copy of their annual filing or rely on the elections officer to forward their candidate disclosure to the Commission on Ethics (Commission) in lieu of an annual disclosure filed with the Commission. However, the Code of Ethics authorizes a candidate subject to annual filing to file with the election officer a verification or receipt of electronic filing in lieu of a copy of the disclosure.

The bill resolves the inconsistency between the Code of Ethics and the Election Code to clarify, effective April 1, 2022, that an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement who has filed his or her annual financial disclosure electronically, may submit a copy of the disclosure filed with the Commission, or a verification or receipt of the filing, with the officer before whom he or she qualifies.

Finally, the bill clarifies certain provisions of law related to the transition to electronic filing of Form 1 disclosures with the Commission set to begin January 1, 2023.

There are no anticipated costs and revenues.

The bill is effective upon becoming law. However, changes to candidate qualification are effective April 1, 2022 and the requirement of specified local officers to file Form 6 is effective January 1, 2023.

¹ S. 97.011, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Full and Public Disclosure of Financial Interests

Present Situation

Financial Disclosures of Public Officers

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests. Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.²

The term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000. The disclosure must be accompanied by either a sworn statement which identifies each separate source and amount of income which exceeds \$1,000 or a copy of the reporting individual’s most recent federal income tax return.³ Pursuant to general law, the Commission has created by rule CE Form 6 (Form 6) to be used to make the required full and public financial disclosure.⁴

Individuals holding the following positions must presently file Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including the mayor); compensation claims judges; Duval County superintendent of schools; Florida Housing Finance Corporation Board members; Florida Prepaid College Board members; and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.

Reporting individuals are required to file Form 6 annually with the Commission by July 1. Additionally, candidates for a constitutional officer are required to make a full and public disclosure of their financial interests at the time of qualifying.

Beginning January 1, 2022, annual Form 6 disclosures filed with the Commission must be filed electronically through an electronic filing system that is created and maintained by the Commission.⁵ Candidates will continue to file a copy of their Form 6 with the election office in which they file qualifying papers.

In addition to those filing Form 6, current law requires a less detailed disclosure of financial interests using the Commission’s CE Form 1 (Form 1). Form 1 must be filed by a large group of local officers, including all officers holding elected positions in political subdivision of the state other than counties as well as specified appointive officers. Other persons filing Form 1 include specified state officers and employees and persons seeking to qualify as candidates for state or local office.⁶

Form 1 requires the individual disclose their primary sources of income from which they receive over \$2,500 of gross income as well as secondary sources of income if the filer owned more than 5% of the total assets or capital stock of a business entity and the filer received more than \$5,000 of gross

² See s. 112.3144(1)(b), F.S.

³ S. 8(i)(1), Art. II, Fl. Const. (schedule in effect until changed by law); s. 112.3144, F.S. (clarifying and limiting disclosure).

⁴ S. 112.3144(8), F.S.

⁵ S. 112.31446, F.S.

⁶ S. 112.3145, F.S.

income during that disclosure period from the business entity. Form 1 filers must also disclose Florida real property interests in excess of 5% of the property's value, and intangible personal property that was worth more than \$10,000 identifying the business entity to which the property related. These filers must also disclose each liability in excess of \$10,000 including the name and address of the creditor when owed at any time during the disclosure period.⁷ Until the end of 2022, filers may make their disclosure using alternate thresholds based on a percentage of gross income, total assets, or net worth.⁸ Form 1 must be filed annually with the Commission by July 1. Beginning January 1, 2023 Form 1 must be filed electronically.

All persons required to file Form 6 or Form 1 also disclose interests in specified businesses granted a privilege to operate in the state of Florida.⁹ All Form 6 filers and Form 1 filers also must file quarterly reports naming clients represented for a fee before agencies at the filer's level of government. Many Form 6 and Form 1 filers must also certify their completion of any required ethics training on their respective financial disclosure form.

Candidate Qualifications Respecting Financial Disclosures

Under the Election Code, at the time of qualifying for office, each candidate for a constitutional office must file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation, and a candidate for any other office, including local elective office, must file a statement of financial interests.¹⁰ When a candidate has qualified for office prior to the deadline to file an annual financial disclosure, the disclosure filed with the candidate's qualifying papers is deemed to satisfy the annual disclosure requirement.¹¹

Beginning January 1, 2023, under the Code of Ethics, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement who has filed his or her annual disclosure electronically, may submit a copy of the disclosure filed with the Commission, or a verification or receipt of the filing, with the officer before whom he or she qualifies.¹² A candidate not subject to an annual filing requirement does not file with the Commission, but may complete and print the appropriate disclosure form to file with the officer before whom he or she qualifies.¹³

Under the Elections Code, in order for a candidate to be qualified, the filing officer must receive the full and public disclosure or statement of financial interests.¹⁴ This provision is inconsistent with the verification or receipt provisions in the Code of Ethics. If the filing officer receives qualifying papers during the qualifying period prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of any missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying.¹⁵

⁷ S. 112.3145(3)(b), F.S.

⁸ S. 112.3145(3)(a), F.S.

⁹ S. 112.313(19), F.S. lists specific entities including banks, insurance companies, cemetery companies, public utilities and others.

¹⁰ S. 99.061, F.S.

¹¹ Ss. 112.3144(3), 112.3145(2)(a), F.S.

¹² Ss. 112.3144(4), 112.3145(2)(c), F.S.

¹³ Ss. 112.3144(4), 112.3145(2)(c), F.S.

¹⁴ S. 99.061(7)(a)5., F.S.

¹⁵ S. 99.061(7)(b), F.S.

Effects of Proposed Changes

The bill adds specified local officers to the list of those who must file Form 6 annually: mayors, city commissioners, elected members of a city council; town council; village council, or other governing body of a city, town, or village, as well as city, county, town or village managers.

The bill adds candidates qualifying for constitutional or other elective office subject to an annual Form 6 filing requirement to the list of those that must file Form 6 prior to running for the office. It clarifies in the Elections Code that candidates may submit a verification or receipt of electronic filing if they have filed an annual financial disclosure electronically with the Commission.

The bill provides that local officers who will be required to file Form 6 will not be required to file Form 1. The bill also clarifies that local officers, through December 31, 2022, must file their annual statements of financial interests with the appropriate county supervisor of elections. It also clarifies that Form 1 and any other form required by s. 112.3145, except a statement of a candidate not subject to an annual filing requirement, must be filed electronically through an electronic filing system created and maintained by the Commission.

Finally, the bill clarifies other provisions with respect to certain notices and the role of Supervisors of Election pending the transition next year to electronic filing of annual Form 1 disclosures.

B. SECTION DIRECTORY:

Section 1: Amends s. 99.061, F.S., effective April 1, 2022, to clarify candidate financial disclosure requirements and authorize a receipt or verification of filing Form 1 or Form 6 to be filed with qualifying papers in lieu of a copy of the completed form.

Section 2: Amends s. 112.3144, F.S., effective January 1, 2023, to require certain municipal officers and county managers to make full and public financial disclosure as is required of constitutional officers.

Section 3: Amends s. 112.3145, F.S., to remove the affected officers required to file Form 6 from the Form 1 disclosure requirements in that section and clarifies filing and notice requirements during transition to electronic filing of financial disclosures.

Section 4: Provides the bill shall take effect upon becoming law, except as otherwise expressly provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does appear to impact state revenues.

2. Expenditures:

The bill does not appear to impose significant state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to significantly impact local government expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have an economic impact on the private sector.

D. FISCAL COMMENTS:

N/A

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill imposes additional financial disclosures on certain officers of local government but the burden on the governments themselves does not appear to reach the threshold required to be affected by s. 18, Art. VII, Fl. Const.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 12, 2022, the Public Integrity & Elections Committee considered HB 301 and adopted two amendments. The bill was temporarily postponed by operation of House Rule 7.11(d). The amendments were engrossed in PCS HB 301 published on January 13, 2022.

Amendment Barcode No. 664549 added a new section to the bill which revises the candidate qualification law,¹⁶ to clarify that any candidate for any elective office subject to an annual filing of Form 6 must file a Form 6 at the time of qualifying for office. The amendment also clarifies that office-holders seeking re-election or election to a different office may file a receipt or verification of electronic filing of Form 6 or Form 1 with their candidate qualifying papers rather than a copy of their financial disclosures.

Amendment Barcode No. 145413 revised Section 2 of the original bill to eliminate the change in definition of local officer, instead exempting local officers from the Form 1 filing requirement if they are required to file Form 6. The amendment also clarifies certain filing and notice requirements with respect to the pending transition to electronic filing of Form 1 with the Commission beginning January 1, 2023.

On January 18, 2022, the Public Integrity & Elections Committee considered PCS HB 301, adopted two additional amendments and reported the bill favorably as a committee substitute.

Amendment 1, denominated PCS for HB 301 a1, clarified that local officers who will file Form 6 beginning in 2023 will continue to certify on their financial disclosure their receipt of required ethics training. The amendment also fixes the effective date of Section 2 of the bill as January 1, 2023.

Amendment 2, denominated PCS for HB 301 a2, revised Section 4 to make the general effective date of the bill to be upon becoming law.

¹⁶ S. 99.061, F.S.
STORAGE NAME: h0301d.LAV
DATE: 2/7/2022

This analysis is drafted to the committee substitute as approved by the Public Integrity & Elections Committee.