

STORAGE NAME: h4067a.er

DATE: March 25, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4067

RELATING TO: Elections/Campaign Contributions

SPONSOR(S): Representatives Carlton and Brown

COMPANION BILL(S): SB 960 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELECTION REFORM (GRC) YEAS 7 NAYS 1
 - (2) CRIME AND PUNISHMENT (JC)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 4067 defines "affiliated corporations" for the purposes of Chapter 106, Florida Statutes, relating to campaign financing. Under the definition affiliated corporations will be deemed to be one "person" for the purposes of applying the \$500 per person cap on campaign contributions. Provides that any person who knowingly and willfully receives a prohibited contribution commits a misdemeanor of the first degree. Provides that even if the contribution is not "willful" it must be returned within 30 days of receipt and if it is not the candidate must pay a sum equal to the contribution to general revenue. Provides that this payment may be made from several sources and provides for reporting requirements.

This bill has indeterminate fiscal impact.

This bill takes effect on July first of the year in which enacted,

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

With certain exceptions, Florida Law limits contributions to a candidate by a "person," including a corporation, to \$500 per election. [§106.08(1), F.S.] The law treats each corporation as a "person" for purposes of the contribution limits. [§106.011(8), F.S.] Thus, a corporation and its subsidiaries could each contribute up to \$500 per candidate, per election.

Florida law does prohibit any person from making a direct or indirect contribution in the name of another; however, proving the same is difficult evidentiary matter. [§106.08(5), F.S.] However, this does not prevent corporations or groups from collecting otherwise legal contributions, combining them, and delivering them to the candidate in order to achieve maximum recognition and impact. This activity has come to be known as "bundling."

B. EFFECT OF PROPOSED CHANGES:

This bill defines "affiliated corporations" as two or more corporations that do any of the following:

- File consolidated state or federal income tax returns;
- Share the majority of members of their boards of directors;
- Share two or more officers;
- Are owned or controlled by the same majority shareholder or shareholders;
- Are in a parent subsidiary relationship; or
- Have a relationship in which one corporation directly or indirectly owns or controls the management and policies of one or more other corporations through the ownership of voting shares or by contract, arrangement, understanding, relationship, or any other factor establishing control.

This bill provides that corporations that are found to be affiliated under this definition will be treated as a single "person" for the purposed of the \$500 per person contribution cap.

This bill additionally provides that the following acts are explicitly violations of the prohibition on giving a contribution either directly or indirectly in the name of another:

- Giving money or any bonus, award, or thing of value to an employee for the purpose of effecting a contribution in support of or in opposition to any candidate, issue, political party, political committee, or committee of continuous existence;
- Giving money or any bonus, award, or thing of value to an employee for the purpose of reimbursing the employee, in whole or in part, for making a contribution in support of or in opposition to any candidate, issue, political party, political committee, or committee of continuous existence;
- By bribery, menace, threat, or other corruption, including the possibility of termination of employment, either directly or indirectly mandate that an employee make a contribution in support of or in opposition to any candidate, issue, political party, political committee, or committee of continuous existence.

This bill provides that a candidate receiving a contribution must return any contribution from corporations that are found to be affiliated under the provisions of this bill within 30 days of receipt. If the contribution is not returned within this time, the candidate receiving it must return the contribution to the general revenue fund of the state. The funds to accomplish this requirement may come from either; any campaign account the candidate has, any office account the candidate has, funds raised for the specific purpose of paying this debt, provided that contribution limits and reporting requirements are met, or out of personal funds.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No. This bill will limit the ability of some corporate entities to participate in the political process.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes. This bill will limit the ability of some corporate entities to participate in the political process.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This bill creates section 106.084, Florida Statutes and amends sections 106.011 and 106.08, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Defines “affiliated corporations” for the purposes of Chapter 106, Florida Statutes, relating to campaign financing.

Section 2: Provides for limitation of campaign contributions from affiliated corporations. Prohibits business entities from improperly seeking to influence its employees to make political contributions.

Section 3: Provides that a candidate must return any money received in violation of this bill or pay the money to the general revenue fund. Provides for where money may come from. Provides for reporting requirements.

Section 4: Provides an effective date of July first of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The costs of administering the provisions of this bill are minimal and can be handled with current funds.

This bill will generate an indeterminate amount of revenue to the general revenue fund. This money will come from the amounts that candidates receive in violation of this bill that must be turned over to general revenue.

3. Long Run Effects Other Than Normal Growth:

The costs of administering the provisions of this bill are minimal and can be handled with current funds.

This bill will generate an indeterminate amount of revenue to the general revenue fund. This money will come from the amounts that candidates receive in violation of this bill that must be turned over to general revenue.

4. Total Revenues and Expenditures:

The costs of administering the provisions of this bill are minimal and can be handled with current funds.

This bill will generate an indeterminate amount of revenue to the general revenue fund. This money will come from the amounts that candidates receive in violation of this bill that must be turned over to general revenue.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill passed the Committee on Election Reform with three amendments:

Amendment 1 Provides that corporations must meet four of the listed criteria rather than one in order to be deemed "affiliated."

Amendment 2 Provides that the designation of a primary campaign depository by a candidate is deemed complete upon postmark or receipt by the division of elections whichever is earlier.

Amendment 3 Adds "Share the same address or Post office box" to the criteria for determining whether corporations are affiliated."

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

Legislative Research Director:

Clay Roberts

Clay Roberts