

STORAGE NAME: h2109z.er

DATE: July 12, 1999

****FINAL ACTION****

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ELECTION REFORM
FINAL ANALYSIS**

BILL #: HB 2109 (Passed as SB 754) (Chapter #: 99-318, Laws of Florida)

RELATING TO: Elections (Ballot Access for Minor Party Candidates and Candidates With No Party Affiliation)

SPONSOR(S): Committee on Election Reform, Representative Flanagan and others

COMPANION BILL(S): SB 754 (similar)

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

- (1) ELECTION REFORM (PRC) YEAS 8 NAYS 0
- (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

HB 2109 died on the Calendar. On June 11, 1999, SB 754 was approved by the Governor, and became Chapter 99-318, Laws of Florida.

II. SUMMARY:

SB 754 implements the amendment to Article VI, Section 1, Florida Constitution, which was approved by the voters at the 1998 General Election. This amendment provides that the ballot access requirements for minor party candidates and candidates with no party affiliation can be no greater than the requirements for a candidate of the political party having the largest number of registered voters in the jurisdiction of the office sought.

The fiscal impact of this bill has not been determined.

This act shall take effect upon becoming a law.

III. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Effective January 5, 1999, Article VI, Section 1 of the Florida Constitution provides that the requirements for obtaining a ballot position for a minor party candidate or a candidate with no party affiliation may be no greater than the requirement of a candidate of the political party having the largest number of registered electors.

Under current law, Florida is considered to have the toughest ballot access provisions in the nation. Florida's Election Code provides two methods of qualifying for major party candidates seeking their party's nomination to office. The first method allows a candidate to qualify by paying a qualifying fee (which includes a filing fee, election assessment and a party assessment) equal to a total of six percent of the annual salary of the office sought.

The second method enables a major party candidate to qualify to have his or her name placed on the primary election ballot without paying the qualifying fee by obtaining signatures on petitions. This alternative method of qualifying requires a candidate to obtain a number of signatures equal to at least three percent of the number of registered electors of the party by which the candidate seeks nomination who are registered electors within the geographical jurisdiction of the office being sought. Only signatures of electors who are registered in the political party by which the candidate seeks nomination are counted.

Independent candidates (hereinafter referred to as "candidates with no party affiliation") must petition to obtain ballot position. The name of a candidate with no party affiliation only appears on the general election ballot. Candidates with no party affiliation must obtain signatures of a number of electors equal to three percent of the total number of registered electors in the geographical jurisdiction represented by the office sought. In addition to obtaining signatures on petitions, candidates with no party affiliation are required to pay the qualifying fee equal to four percent of the annual salary of the office sought. A candidate who is unable to pay the qualifying fee is able to have it waived by filing an affidavit that the candidate will have an undue burden placed on his or her resources.

Section 99.096, F.S., provides the qualifying requirements for minor party candidates. Like candidates with no party affiliation, minor party candidates must petition to obtain ballot position, and the names of the minor party candidates appear only on the general election ballot. A number of signatures equal to three percent of the registered electors of the geographical jurisdiction are required. The executive committee of the minor party submits the list of candidates nominated by the party to the Department of State, and candidates eligible to qualify do so during the qualifying period. Minor party candidates are required to pay the qualifying fee of four percent and, if assessed by the party, the two percent party assessment: however, these fees may be waived upon filing an oath of undue burden. A minor party may obtain ballot position for all of its statewide candidates with one petition, if signed by three percent of the registered voters of the state.

The Florida Election Code defines a "minor political party" as "any group . . . which on January 1 preceding a primary election does not have registered as members 5 percent of the total registered electors of the state. Any group of citizens organized for the general purposes of electing to office qualified persons and determining public issues under the democratic processes of the United States may become a minor political party of this state by filing with the department a certificate showing the name of the organization, the names of its current officers, including the members of its executive committee, and a copy of its constitution and bylaws . . .". [s. 97.021(13), F.S.]

B. EFFECT OF PROPOSED CHANGES:

SB 754 reduces the petition requirements for all candidates and further revises the ballot access requirements for minor party candidates and candidates with no party affiliation. The bill provides that minor party candidates nominated by their political party and candidates with no party affiliation may **either** pay the qualifying fee **or** petition to obtain a position on the general election ballot. The qualifying fee for candidates with no party affiliation is equal to four percent of the annual salary of the office sought (three percent filing fee and one percent election assessment).

The qualifying fee for a minor party candidate consists of the three percent filing fee and one percent election assessment and, if one has been levied, a two percent party assessment.

The petition requirements for all candidates have been modified to require petitions equal to *1% of the registered voters in the jurisdiction of the office sought*. This change will apply to major party candidates, minor party candidates, no party affiliation candidates and judicial candidates. Therefore, the petition requirements for all candidates for a particular office will be the same.

For a major party candidate qualifying by petition instead of paying the qualifying fee, the percentage of signatures will be based on all registered voters, rather than voters registered in the candidate's political party. Any voter will be allowed to sign the petition, regardless of party affiliation. This modification will reduce the number of signatures needed for some major party candidates and will increase the number of signatures needed for others.

Under the provisions of the bill, minor party candidates and candidates with no party affiliation may petition to obtain ballot position, in lieu of paying the qualifying fee. Petitions must equal one percent of the registered voters in the geographic entity represented by the office sought, rather than the current three percent. This will reduce by one-third the number of signatures needed. The provision allowing a minor political party to obtain ballot position for all of its statewide candidates with one petition has been eliminated.

A minor political party affiliated with a national party holding a national convention may have the names of its candidates for the office of President and Vice President printed on the general election ballot upon notification to the Department of State of the names of its nominees and the names of the presidential electors. The bill does not change the current requirements for candidates for President and Vice President of a minor party not affiliated with a national party holding a national convention and candidates with no party affiliation for President and Vice President. These candidates may obtain ballot position by obtaining petitions signed by one percent of the registered voters of the state.

The petition requirements for congressional and legislative candidates during a year of apportionment are reduced by one-third to require signatures of one-third of one percent of the ideal population for the district of the office sought.

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:

An agency or program is not eliminated or reduced.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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?

Not applicable.

4. Individual Freedom:

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

Yes, to the extent that the provisions of the bill will make it easier for candidates to obtain a position on the ballot.

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

No.

5. Family Empowerment:

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

The bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

- 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:

The bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

This bill substantially amends ss. 99.021, 99.061, 99.092, 99.095, 99.0955, 99.096, 99.0965, 99.09651, 99.097, 100.111, 100.141, 101.151, 101.191, 101.251, 101.5606, 103.021, 105.035 and 106.143, F.S.

E. SECTION-BY-SECTION ANALYSIS:

This section need to be completed only in the discretion of the Committee.

IV. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

There will be a cost associated with revising handbooks issued by the Division of Elections to reflect the changes made by this bill. The fiscal impact has not been determined at this time.

2. Recurring Effects:

Undetermined at this time.

3. Long Run Effects Other Than Normal Growth:

Undetermined at this time.

4. Total Revenues and Expenditures:

To the extent that the reduction in the number of signatures required to obtain ballot position by the alternative method impacts the number of candidates opting to qualify by the alternative method instead of paying the qualifying fee, there would be a reduction in revenues associated with the payment of those qualifying fees.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Undetermined at this time.

2. Recurring Effects:

Undetermined at this time.

3. Long Run Effects Other Than Normal Growth:

Undetermined at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

Not applicable.

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D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This act is exempt from the mandates provision of the Florida Constitution because it is an elections law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

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

None.

VI. COMMENTS:

This bill is drafted pursuant to the amendment to Article VI, section 1, Florida Constitution (commonly referred to as Constitutional Revision No. 11), which was approved by the voters at the 1998 General Election.

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Not applicable.

VIII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

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Staff Director:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ELECTION REFORM:

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