

STORAGE NAME: h2109.go

DATE: April 14, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 2109 (PCB ER 99-03d)

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
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 2109 reduces the petition requirement for the alternative method of qualifying for all candidates. Major party candidates may obtain petitions equal to either one percent (1%) of the registered voters of the jurisdiction represented by the office sought, or equal to three percent (3%) of the total number of registered voters of the candidate's party that are registered in the jurisdiction represented by the office sought, whichever is less. The requirement that signatures only be obtained from registered voters of the candidate's party has been eliminated.

This bill also provides that minor party candidates and candidates with no party affiliation may *either* pay *or* petition to obtain a position on the general election ballot. If the candidate chooses the alternative method of qualifying, he or she must obtain signatures equal to one percent (1%) of the registered voters of the jurisdiction represented by the office sought.

The fiscal impact of this bill has not been determined.

This act shall take effect upon becoming a law.

II. 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:

HB 2109 revises the ballot access requirements for **all** candidates. 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. Section 99.103, F.S., is amended to provide that minor political parties will receive a portion of the filing fees of its candidates, in the same manner as major political parties.

Under the provisions of this bill, minor party candidates and candidates with no party affiliation may petition to obtain ballot position, in lieu of paying the qualifying fee. The provision allowing a minor political party to obtain ballot position for all of its statewide candidates with one petition has been eliminated. The petition requirements have been reduced to one percent (1%) of the registered voters of the jurisdiction represented by the office sought.

In contrast, major party candidates may obtain petitions equal to either one percent (1%) of the registered voters of the jurisdiction represented by the office sought, or equal to three percent (3%) of the total number of registered voters of the candidate's party that are registered in the jurisdiction represented by the office sought, whichever is less. Irrespective of the option chosen, the requirement that signatures only be obtained from registered voters of the candidate's party has been eliminated.

With respect to presidential elections, 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. This 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, nor does it change the requirements for candidates with no party affiliation. These candidates may obtain ballot position by obtaining petitions signed by one percent of the registered voters of the state.

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:

Amending ss. 98.231, 99.021, 99.061, 99.092, 99.095, 99.0955, 99.096, 99.0965, 99.09651, 99.097, 99.103, 100.111, 100.141, 101.151, 101.191, 101.251, 101.5606, 103.021, 105.035, 106.08, 106.141, and 106.143, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 99.095, F.S., relating to the alternative method of qualifying. Provides that the qualifying officer shall provide the candidate with a petition format to be used to reproduce petitions for circulation.

Section 2: Amends s. 99.0955, F.S., relating to candidates with no party affiliation. Substantial rewording of section.

Section 3: Amends s. 99.096, F.S., relating to minor party candidates. Substantial rewording of section.

Section 4: Amends s. 99.09651, F.S., relating to signature requirements for ballot position in year of apportionment. Conforming amendment.

Section 5: Amends s. 99.097, F.S., relating to verification of signatures on petitions. Removes provision which prohibits a minor party candidate from filing an oath of undue burden in lieu of payment of charges to verify signatures on petitions. Provides that the supervisor of elections is to forward the number of signatures verified at no charge to the Division of Elections, instead of the Comptroller.

Section 6: Amends s. 99.103, F.S., relating to remittance of filing fees and party assessments to state executive committees. Provides that each political party organized pursuant to general law shall receive all filing fees collected by the Department of State from its candidates, less 15 percent.

Section 7: Amends s. 103.021, F.S., relating to nomination for presidential electors. Provides that candidates for President and Vice President with no party affiliation may have their names printed on the general election ballot if a petition is signed by one percent of the registered electors of the state. Provides that a minor party which is affiliated with a national party holding a national convention to nominate candidates for President and Vice President may have the names of its candidates printed on the general election ballot upon filing a certificate with the Department of State. Provides that a minor party which is not affiliated with a national party holding a national convention to nominate candidates for President and Vice President may have the names of their candidates printed on the general election ballot if a petition is signed by one percent of the registered electors of this state.

Section 8: Amends s. 105.035, F.S., relating to the alternative method of qualifying for certain judicial officers. Reduces signature requirement to one percent. Conforming amendment.

Section 9: Amends s. 98.231, F.S., relating to Supervisor of elections furnishing Department of State the number of registered electors. Conforming amendment.

Section 10: Amends s. 99.021, F.S., relating to form of candidate oath. Conforming amendment.

Section 11: Amends s. 99.061, F.S., relating to the method of qualifying for nomination or election. Conforming amendment.

Section 12: Amends s. 99.092, F.S., relating to qualifying fees. Conforming amendment.

Section 13: Amends s. 99.0965, F.S., relating to minor parties. Conforming amendment.

Section 14: Amends s. 100.111, F.S., relating to filling vacancies. Conforming amendment.

Section 15: Amends s. 100.141, F.S., relating to notice of special election to fill any vacancy in office or nomination. Conforming amendment.

Section 16: Amends s. 101.151, F.S., relating to specifications for general election ballot. Conforming amendment.

Section 17: Amends s. 101.191, F.S., relating to the form of the general election ballot. Conforming amendment.

Section 18: Amends s. 101.251, F.S., relating to information which the supervisors of elections must print on ballots. Conforming amendment.

Section 19: Amends s. 101.5606, F.S., relating to requirements for approval of voting systems. Conforming amendment.

Section 20: Amends s. 106.08, F.S., relating to limitations on contributions. Conforming amendment.

Section 21: Amends s. 106.141, F.S., relating to disposition of surplus funds by candidates. Conforming amendment.

Section 22: Amends s. 106.143, F.S., relating to political advertisements circulated prior to election. Conforming amendment.

Section 23: Provides for an effective date upon becoming law.

III. 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.

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

Not applicable.

D. FISCAL COMMENTS:

None.

IV. 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.

V. 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.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The strike-everything amendment to PCB ER 99-03d that was adopted by the Committee on Election Reform has been incorporated into HB 2109 by bill drafting.

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

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