

STORAGE NAME: h1097a.er

DATE: March 8, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
ANALYSIS**

BILL #: HB 1097

RELATING TO: Campaign Treasurer's Reports

SPONSOR(S): Representative Flanagan

TIED BILL(S): HB 1099

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

- (1) ELECTION REFORM (PRC) YEAS 9 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS (PRC)
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

HB 1097 enhances both disclosure and tracking of contributions and expenditures required to be reported on campaign treasurer's reports. Candidates, committees, and political parties who receive contributions or make expenditures in an aggregate amount over \$10,000 in a calendar year will be required to file campaign treasurer's reports by electronic means via the Division of Elections' Internet web site. Reports can be filed either by way of direct data entry or through data electronic transfer through the Division of Elections' Internet web site.

The bill clarifies that all campaign treasurer's reports must cover contributions received or expenditures made from the first day of the reporting period through the day immediately preceding the filing deadline for that reporting period, and all contributions received and expenditures made during any previous reporting period which have not been reported.

Additionally, effective January 1, 2001, reporting periods will be condensed to require weekly reporting periods when within the period between the last day of qualifying to the general election. Otherwise, campaign treasurer's reports will be required to be filed monthly.

This bill has a positive fiscal impact on the Division of Elections by reducing costs associated with personnel needed to manually input campaign treasurer report information filed by hard copy.

Notwithstanding the January 1, 2001 effective date noted above, this bill will become effective upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Campaign Treasurer's Reports

Generally, candidates, political committees, committees of continuous existence, and state executive committees of political parties are required to report all contributions received and expenditures made by way of campaign treasurer's reports filed with the Division of Elections (the Division).

Reports must be filed quarterly except after the last day of qualifying when the reports are due every two weeks leading up to each of the three elections: the first and second primaries and the general election [corresponding statutory days are the 32nd, 18th, and 4th days preceding the first primary and the 18th and 4th days preceding the second primary and general election]. For candidates receiving funds under the provisions of the Florida Election Campaign Financing Act (public financing of campaigns), reports are due weekly preceding each of the three elections [corresponding due dates are the 32nd, 25th, 18th, 11th, and 4th days preceding the first primary and the 25th, 18th, 11th, and 4th days preceding the second primary and general election]. Committees of continuous existence resume filing quarterly reports after the general election.

Campaign treasurer's reports are composed of various components including:

- *Campaign Treasurer's Report Summary* (form DS-DE 12) - Shows a "snapshot" of the aggregate amount of contributions received and expenditures made for the reporting period.
- *Campaign Treasurer's Report - Itemized Contributions* (form DS-DE 13) - Itemized ledger including contributor's name, address, occupation, contribution type, and amount.
- *Campaign Treasurer's Report - Itemized Expenditures* (form DS-DE 14) - Itemized ledger including name and address of entity receiving payment, purpose of expenditure, expenditure type, and amount.
- *Magnetic Diskette* - Computer diskette which includes itemized contributions and expenditures in an uploadable electronic format.

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For committees and candidates who are unable to provide a magnetic diskette, paper copies of the forms are acceptable.

The Division estimates that approximately 40 percent of candidates filing campaign treasurer's reports file a magnetic diskette. This number is much lower for committees. All paper reports filed must be data entered by Division staff - a time-consuming effort. Moreover, software utilized by various campaign treasurers is incompatible with the Division's computer system, or the magnetic diskettes submitted are unreadable requiring further use of the Division's staff to manually input the required information.

Reports are due by 5 p.m. on the designated due date. Reports are accepted as timely filed so long as they are postmarked by midnight on the due date by the U.S. Postal Service. The Division releases the reports to the public upon receipt of all reports for a particular race so as not to benefit one candidate over another. This can, in effect, lengthen the time the Division is able to release this information to the public.

Petty Cash Funds

Section 106.12, F.S., provides campaign treasurers the authority to withdraw \$500 per calendar quarter to provide candidates and political committees with a petty cash fund.

C. EFFECT OF PROPOSED CHANGES:

Campaign Treasurer's Reports

HB 1097 serves two distinct purposes. First, the bill streamlines the reporting process by providing campaign treasurers direct access to the Division's computer servers via the Division's Internet web site to either directly transfer the campaign treasurer's report data, or to directly input the information. Second, heightened public disclosure will be available as the information contained in the campaign treasurer's report will immediately become accessible on the Division's Internet web site for public scrutiny.

HB 1097 specifically requires candidates, political committees, committees of continuous existence, and political party executive committees to file these reports by electronic means if they receive contributions or make expenditures in the aggregate of \$10,000 in a calendar year. Reports required to be filed electronically are due by 5 p.m. on the due date. There exists no grace period for the timely filing of electronic reports. Additionally, the Division is given rulemaking authority to administer the provisions contained in the bill.

Also, effective January 1, 2001, HB 1097 condenses the current quarterly and bi-weekly reporting periods by requiring **monthly** reports in lieu of quarterly reports and **weekly** reports in lieu of bi-weekly reports. Monthly reports will be due on the 15th of the month immediately following the reporting period, while weekly reports will be due each Friday leading up to the general election.

Petty Cash Funds

Finally, the amount authorized to be withdrawn by a campaign treasurer for a petty cash fund is modified from \$500 per calendar quarter to \$200 per month. This conforms to the change from quarterly reporting periods to monthly reporting periods effectuated by this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates s. 106.0705, F.S., requiring candidates, political committees, committees of continuous existence, and state executive committees of political parties to file campaign treasurer's reports by electronic means if contributions are received or expenditures are made in an aggregate amount of \$10,000 per calendar year.

Reports filed by this method are due no later than 5 p.m. on the designated due date.

Provides rulemaking authority to the Division of Elections in order to carry out the requirements of this section to include:

1. Development of an Internet electronic filing system;
2. Accessibility to such system by anyone using a standard Internet web-browser (e.g., Microsoft Explorer or Netscape Navigator);
3. Allow users to access the filing system for data entry and download campaign finance information;
4. Security verification of person accessing data entry portion of the campaign report;
5. Alternative method for filing should the Division's Internet web server fail.

Section 2. Amends s. 106.04, F.S., to conform and provide that all reports required to be filed by committees of continuous existence under the \$10,000 aggregate must be filed on forms provided by the Division.

Section 3. Amends s. 106.07, F.S., to specify reporting period requirements for political committees and candidates; removes unnecessary language regarding the filing of an original paper report and one copy.

Section 4. Effective January 1, 2001, s. 106.07(1), F.S., is amended to provide for expanded reporting period due dates for campaign treasurer's reports for candidates, political committees, and committees of continuous existence as follows:

1. Monthly - from the date the campaign treasurer is appointed to the last day for qualifying for office, reports will be due on the 15th of each month immediately following the reporting period.
2. Weekly - following the last day of qualifying for office to the week preceding the general election, reports will be due every Friday.

Section 5. Effective January 1, 2001, s. 106.12(1), F.S., is amended to conform the provisions associated with petty cash funds with the changes affected by this bill. Specifically, campaign treasurers will be allowed to withdraw \$200 per month instead of the \$500 per calendar quarter currently provided by law.

Section 6. Amends s. 106.29, F.S., to specify the time frame for which contributions received and expenditures made must be included in the campaign treasurer's report for political parties.

Section 7. Effective January 1, 2001, s. 106.29, F.S., is amended to conform filing deadlines and requirements of state executive committees of political parties'

campaign treasurer's reports with the deadlines and requirements required of candidates, political committees, and committees of continuous existence.

Section 8. Amends s. 105.08, F.S., with respect to campaign treasurer's reports required of justices and judicial candidates to conform to the electronic filing requirements contained in this bill.

Section 9. Amends s. 106.025, F.S., with respect to campaign fund raisers to conform to the electronic filing requirements contained in this bill.

Section 10. Amends s. 106.08, F.S., with respect to the reporting of non-allocable in-kind contributions to conform to the electronic filing requirements contained in this bill.

Section 11. Amends s. 106.18, F.S., with respect to the filing of preelection reports required prior to the issuance of a certificate of elections to conform to the electronic filing requirements contained in this bill.

Section 12. Provides that except as otherwise indicated, this act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Division of Elections estimates that approximately \$90,000 is currently spent during election years and \$50,000 during non-election years, for personnel needed to input campaign treasurer's reports filed by hard copy. This bill will eliminate a high percentage of these expenditures since most reports will be filed directly to the Division's computer server either by direct file transfer or by direct input.

The Division will be required to maintain enough personnel to input information for entities not meeting the \$10,000 threshold and filing by hard copy.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

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2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are exempt from the mandates of Art. VII, s. 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Please see response above.

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

Please see response above.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

HB 1097 provides specific authority to the Division of Elections to carry out the mandates required of this bill.

C. OTHER COMMENTS:

HB 1097 requires all candidates and committees who in the aggregate receive contributions or make expenditures of \$10,000 in a calendar year to file electronically. Further, Section 2 of the bill specifically requires committees of continuous existence not meeting the \$10,000 ceiling to file paper copies, effectively prohibiting these groups from filing by electronic means should they so choose. Moreover, the bill does not address this circumstance with respect to candidates, political committees, or political parties.

The bill may need to be amended to either provide conformity between committees of continuous existence and other political organizations, or to provide the option to file electronically for those groups not meeting the \$10,000 ceiling.

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Also, HB 1097 requires the use of passwords and other secure means to access the Division's computer servers to input or transfer campaign treasurer's reports via the Division's Internet web site. Passwords, identification numbers and other secure information necessary to identify the campaign treasurer to the record being accessed must be exempt from the public records requirements found under the provisions of s. 119.07, F.S., [please see tied bill HB 1099].

Finally, the speed and ease of electronic filing make it possible to immediately release campaign treasurer's reports virtually upon receipt by the Division's computer servers. It is uncertain whether the Division will continue their current policy of releasing campaign treasurer's reports upon receipt of all reports for a particular race, or whether the data will be immediately released upon receipt.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Election Reform passed two amendments to HB 1097.

Amendment #1: Provides candidates, committees, and political parties not meeting the \$10,000 threshold, requiring electronic filing of campaign treasurer's reports, the option to file electronically or by hard copy.

Amendment #2: Removed a provision requiring committees of continuous existence not meeting the \$10,000 threshold to file campaign treasurer's reports by hard copy only.

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

Staff Director:

R. Michael Paredes

Dawn K. Roberts