

STORAGE NAME: h1099z.er

DATE: May 23, 2000

****FAILED TO PASS THE LEGISLATURE****

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

BILL #: HB 1099

RELATING TO: Public Records/Campaign Treasurer

SPONSOR(S): Representative Flanagan

TIED BILL(S): HB 1097

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

- (1) ELECTION REFORM YEAS 9 NAYS 0
- (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 0
- (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS YEAS 10
NAYS 0
- (4)
- (5)

I. SUMMARY:

HB 1099 provides an exemption to the requirements of public records inspection provided by s. 24(a), Art. I of the State Constitution and s. 119.07(1), Florida Statutes. The bill provides for the confidentiality of personal identification numbers and algorithms necessary to maintain the security of information submitted or received through the Division of Elections' Internet web site by campaign treasurers as required by the tied bill, HB 1097.

This bill does not have a significant fiscal impact on state or local governments.

This bill will be 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:

Public Records Law

Article I, section 24(a), Florida Constitution, expresses Florida's public policy regarding access to government records. This section provides that:

Every person has the right to inspect or copy any public records made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, section 24, Florida Constitution, also provides that the Legislature may, by general law, exempt public records from the requirements of section 24(a). Such a general law exempting records from public disclosure must state with specificity the public necessity justifying the exemption and can be no broader than necessary to accomplish the stated purpose of the law.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07, F.S., provides:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, states that an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than necessary to meet that public purpose. An identifiable public purpose is served if the exemption meets one of the following purposes, and the Legislature finds that the purpose is sufficiently compelling to override the strong public

policy of open government and that such purpose cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Filing Campaign Treasurers' Reports under HB 1097

The tied bill, 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. HB 1097 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.

C. EFFECT OF PROPOSED CHANGES:

The bill provides for the confidentiality and exemption from our public records laws of personal identification numbers and algorithms necessary to maintain the security of information submitted or received through the Division of Elections' Internet web site by campaign treasurers as required by the tied bill, HB 1097.

The bill is contingent upon passage of the tied bill, HB 1097, or similar legislation.

D. SECTION-BY-SECTION ANALYSIS:

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

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:

See response above.

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

See response above.

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

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