

By Senator Campbell

32-1334-06

See HB 1095

1 A bill to be entitled
2 An act relating to ballot pamphlets; providing
3 a short title; creating s. 101.2601, F.S.;
4 requiring the Secretary of State to be
5 responsible for preparing and printing ballot
6 pamphlets for statewide elections; providing
7 requirements for the preparation, printing, and
8 content of ballot pamphlets; requiring the
9 Division of Legislative Information Services to
10 prepare specified information for ballot
11 pamphlets; creating s. 101.2602, F.S.;
12 providing ballot pamphlet format requirements;
13 creating s. 101.2603, F.S.; requiring the
14 division to prepare analyses of proposed
15 legislation to be included in ballot pamphlets;
16 providing for the content and format of the
17 analyses; authorizing the division to seek
18 assistance from specified entities; requiring
19 approval of analyses by a committee; providing
20 for committee membership, duties, and
21 reimbursement; creating s. 101.2604, F.S.;
22 requiring each supervisor of elections to
23 provide notice to voters of ballot pamphlet
24 availability; providing for contents of the
25 notice; creating s. 101.2605, F.S.; authorizing
26 candidates for nonpartisan elective office in
27 any local election to prepare a candidate
28 statement; providing for the content of
29 candidate statements; providing requirements
30 for filing, withdrawing, and changing candidate
31 statements; creating s. 101.2606, F.S.;

1 requiring each supervisor of elections to
2 include candidate statements as a supplement to
3 ballot pamphlets; providing requirements for
4 Spanish and Creole translations of candidate
5 statements; authorizing the supervisor of
6 elections to require printing, handling, and
7 translating costs from candidates; providing
8 for liability for false, slanderous, or
9 libelous candidate statements; requiring each
10 supervisor of elections to notify candidates by
11 a certain date of candidate statement charges;
12 providing for content of judicial candidate
13 statements; creating s. 101.2607, F.S.;
14 providing for the inability of a candidate to
15 pay a candidate statement fee; providing for
16 the content and submittal of a statement of
17 financial worth to the supervisor of elections
18 by an indigent candidate; providing
19 requirements for the supervisor of election's
20 determination of candidate indigence; creating
21 s. 101.2608, F.S.; providing for the format of
22 candidate statements; creating s. 101.2609,
23 F.S.; providing for the public examination of
24 candidate statements; authorizing a fee for
25 copies; providing for a writ of mandamus or an
26 injunction upon the showing of certain
27 evidence; providing for the parties in a writ
28 of mandamus or injunction proceeding; creating
29 s. 101.2610, F.S.; providing for a voter's writ
30 of mandamus regarding ballot pamphlets upon the
31 showing of certain evidence; providing for

1 priority and venue of writ of mandamus
2 proceedings; creating s. 101.2611, F.S.;
3 providing requirements for each supervisor of
4 elections to mail ballot pamphlets and
5 candidate statements to voters; requiring the
6 Secretary of State to deliver ballot pamphlets
7 to each supervisor of elections; requiring the
8 Secretary of State to reimburse each supervisor
9 of elections for mailing costs; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. This act may be cited as the "Florida
15 Ballot Pamphlet Act."

16 Section 2. Section 101.2601, Florida Statutes, is
17 created to read:

18 101.2601 Ballot pamphlet preparation, printing,
19 contents, content placement.--

20 (1)(a) For all statewide elections, the Secretary of
21 State is responsible for coordinating the preparation and
22 printing of as many ballot pamphlets as are needed to comply
23 with ss. 101.2604 and 101.2611. The ballot pamphlets shall be
24 printed in the Print and Duplicating Shop of the Department of
25 State unless the Director of Administrative Services
26 determines that the printing of the pamphlets in the Print and
27 Duplicating Shop of the Department of State cannot be done
28 adequately, competently, or satisfactorily, in which case the
29 Secretary of State, subject to the approval of the Director of
30 Administrative Services, shall contract with a private
31 printing concern for the printing of all or a portion of the

1 ballot pamphlets. Copy content for preparation of the ballot
2 pamphlets shall be furnished to the Print and Duplicating Shop
3 of the Department of State at least 40 days prior to the date
4 of required delivery to the elections officials as provided
5 herein.

6 (b) The Secretary of State shall deliver printed
7 ballots to each supervisor of elections as required under s.
8 101.2611.

9 (c) For all statewide elections, supervisors of
10 elections are responsible for mailing ballot pamphlets to
11 registered voters as required under s. 101.2611.

12 (2) The Secretary of State shall disseminate the
13 complete ballot pamphlet over the Internet.

14 (3) The ballot pamphlet shall contain the following:

15 (a) Tables of contents, indexes, artwork, graphics,
16 and other materials that the Secretary of State determines
17 will make the ballot pamphlet more useful to or easier to
18 understand for the average voter.

19 (b) A notice, conspicuously printed on the cover of
20 the ballot pamphlet, indicating that additional copies of the
21 ballot pamphlet will be mailed by the supervisor of elections
22 upon request.

23 (c) The Voter's Bill of Rights and Responsibilities.

24 (d)1. Information on each proposed constitutional
25 amendment or other public measure in the following order:

26 a. Identification of the measure by number, section,
27 and title.

28 b. A summary statement for each proposed
29 constitutional amendment or other public measure.

30 (I) A summary statement shall provide a concise
31 summary of the general meaning and effect of "yes" and "no"

1 votes on each proposed constitutional amendment or other
2 public measure.

3 (II) The summary statements required by this section
4 shall be prepared by the Division of Legislative Information
5 Services in the Office of Legislative Services. These
6 statements are not intended to provide comprehensive
7 information on each measure. The Division of Legislative
8 Information Services shall be solely responsible for
9 determining the contents of the statements. The statements
10 shall be available for public examination and amendment as
11 provided in this section.

12 (III) The Division of Legislative Information Services
13 shall submit a summary statement for each proposed
14 constitutional amendment or other public measure to the
15 Attorney General for approval.

16 c. The total number of votes cast for and against each
17 measure in both the Senate and House of Representatives for
18 proposed constitutional amendments or other public measures
19 passed by the Legislature.

20 d. An analysis of each proposed constitutional
21 amendment or other public measure prepared by the Division of
22 Legislative Information Services under s. 101.2603.

23 e. Arguments, if any, for or against each measure.

24 (I) A rebuttal, if any, shall be placed immediately
25 below each argument.

26 (II) The following statement shall be printed at the
27 bottom of each page where arguments appear: "Arguments printed
28 on this page are the opinions of the authors and have not been
29 checked for accuracy by any state agency."

30 (III) The Secretary of State shall be responsible for
31 regulating the submission and content of arguments, subject to

1 the requirements of this sub-subparagraph. Written arguments
2 containing no more than 100 words may be authored and
3 submitted to the Secretary of State by any citizen or citizen
4 organization. Each argument that is published in the ballot
5 pamphlet shall be followed by the name, address, and telephone
6 number of the argument's author.

7 f. The provisions of the proposed measure and the
8 existing provisions of law repealed or revised by the measure.
9 The provisions of the proposed measure differing from the
10 existing provisions of law affected shall be distinguished in
11 print so as to facilitate comparison. Proposed constitutional
12 amendments or other public measures shall be printed in the
13 ballot pamphlet as close as possible to the manner and form in
14 which they appear on the ballot.

15 2. The information required under this paragraph for
16 each proposed constitutional amendment or other public measure
17 shall appear in the ballot pamphlet in the same order in which
18 each proposed constitutional amendment or other public measure
19 appears on the ballot.

20 3. The information required under this paragraph shall
21 be conspicuously grouped according to each proposed
22 constitutional amendment or other public measure and
23 conspicuously spaced apart from information on other proposed
24 measures.

25 (e) A statement that the Secretary of State certifies
26 that all the information in the ballot pamphlet is correct.

27 Section 3. Section 101.2602, Florida Statutes, is
28 created to read:

29 101.2602 Format of ballot pamphlet.--The ballot
30 pamphlet shall be printed according to the following
31 specifications:

1 (1) The pages shall be no smaller than 8 1/2 inches x
2 11 inches in size.

3 (2) The type shall be clear, readable, and not less
4 than 10 points in size, except that the text of any proposed
5 constitutional amendment or other public measure may be
6 printed in 8-point type.

7 (3) The paper shall be of a quality and weight that,
8 in the judgment of the Secretary of State, best serves the
9 voters.

10 Section 4. Section 101.2603, Florida Statutes, is
11 created to read:

12 101.2603 Analysis of proposed legislation.--The
13 Division of Legislative Information Services shall prepare for
14 the ballot pamphlet an impartial analysis of each proposed
15 constitutional amendment or other public measure that
16 describes the measure and includes an analysis of the
17 measure's fiscal impact that shows the amount of any increase
18 or decrease in revenue or cost to state or local governments.
19 Any estimate of increased cost to local governments shall be
20 printed in boldface type in the ballot pamphlet. The analysis
21 shall be written in clear and concise terms so as to be easily
22 understood by the average voter and shall avoid the use of
23 technical terms wherever possible. The analysis may contain
24 background information, including the effect of the measure on
25 existing law and the effect of enacted legislation that will
26 become effective if the measure is adopted, and shall
27 generally set forth in an impartial manner all information the
28 average voter reasonably needs to adequately understand the
29 measure. The division may contract with professional writers,
30 educational specialists, or other persons for assistance in
31 writing an analysis that fulfills the requirements of this

1 section, including the requirement that the analysis be
2 written so that it will be easily understood by the average
3 voter. The division may also request the assistance of any
4 state department, agency, or official in preparing the
5 analysis. Prior to submitting the analysis to the Secretary of
6 State, the division shall submit the analysis to a committee
7 of five persons appointed by the division for the purpose of
8 reviewing the analysis to confirm its clarity and ease of
9 comprehension for the average voter. The committee shall be
10 drawn from the public at large, and one member shall be a
11 specialist in education, one member shall be bilingual in
12 English and Spanish, one member shall be bilingual in English
13 and Creole, and one member shall be a professional writer.
14 Members of the committee shall be reimbursed for reasonable
15 and necessary expenses incurred in performing their duties.
16 Within 5 days after the submission of the analysis to the
17 committee, the committee shall make such recommendations to
18 the division as it deems appropriate to guarantee that the
19 analysis can be easily understood by the average voter. The
20 division shall consider the committee's recommendations and
21 shall incorporate into the analysis changes recommended by the
22 committee that the division deems appropriate. The division is
23 solely responsible for determining the content of the analysis
24 required by this section.

25 Section 5. Section 101.2604, Florida Statutes, is
26 created to read:

27 101.2604 Notice of ballot pamphlet availability.--Each
28 supervisor of elections shall send each voter notice as to
29 where the voter can obtain a ballot pamphlet prior to the
30 election, a statement indicating that ballot pamphlets will be
31 available at the polling place at the time of the election,

1 the address of the Secretary of State's Internet website and,
2 if applicable, the address of the county Internet website
3 where a ballot pamphlet may be viewed.

4 Section 6. Section 101.2605, Florida Statutes, is
5 created to read:

6 101.2605 Submission of candidate statements for ballot
7 pamphlet; voluntary candidate statements; nonpartisan elective
8 offices.--

9 (1) Each candidate for nonpartisan elective office in
10 any local election, including any city, county, or district,
11 may prepare a candidate statement on an appropriate form
12 provided by the supervisor of elections. The statement may
13 include the name, age, and occupation of the candidate and a
14 brief description of no more than 200 words of the candidate's
15 education and qualifications. However, the supervisor of
16 elections may authorize an increase in the word limitation for
17 the statement up to 400 words. The statement shall not include
18 the candidate's party affiliation or membership or activity in
19 partisan political organizations.

20 (2) The statement authorized by this section shall be
21 filed with the supervisor of elections when the candidate's
22 qualification papers are returned for filing.

23 (3) A candidate statement may be withdrawn by the
24 candidate during the period for filing qualification papers
25 until 5 p.m. of the next working day after the close of the
26 qualifying period.

27 Section 7. Section 101.2606, Florida Statutes, is
28 created to read:

29 101.2606 Submission of candidate statements for ballot
30 pamphlet; judicial elections.--

31

1 (1) The ballot pamphlet that the supervisor of
2 elections sends to each voter in his or her jurisdiction shall
3 be accompanied by a supplemental pamphlet that contains any
4 candidate statement properly prepared and filed under s.
5 101.2605. Each candidate's statement shall be printed in type
6 that is uniform in size, darkness, and spacing. The supervisor
7 of elections shall provide a Spanish or Creole translation to
8 candidates who request one and shall select a translator from
9 the list of approved Spanish and Creole translators and
10 interpreters of the circuit court of the county.

11 (2) The supervisor of elections may estimate the total
12 cost of printing, handling, and translating the candidate
13 statements filed pursuant to this section, including costs
14 incurred as a result of complying with the Voting Rights Act
15 of 1965, as amended. The supervisor of elections may require
16 each candidate filing a statement to pay, in advance, to the
17 supervisor of elections his or her estimated pro rata share of
18 the costs as a condition of having his or her statement
19 included in the ballot pamphlet. If an estimated payment is
20 required, the receipt for the payment shall include a written
21 notice that the estimate is an approximation of the actual
22 cost that may vary from one election to another and may be
23 significantly more or less than the estimate, depending on the
24 actual number of candidates filing statements. Accordingly,
25 the supervisor of elections is not bound by the estimate and
26 may, on a pro rata basis, bill the candidate for additional
27 actual expenses or refund any excess paid depending on the
28 final actual cost. In the event of underpayment, the
29 supervisor of elections may require the candidate to pay the
30 balance of the cost incurred. In the event of overpayment, the
31 supervisor of elections shall prorate the excess amount among

1 the candidates and refund the excess amount paid within 30
2 days following the election date.

3 (3) Nothing in this section shall be deemed to make
4 the authors of candidate statements free or exempt from any
5 civil or criminal action or penalty because of any false,
6 slandorous, or libelous statements contained in the filed
7 candidate statements.

8 (4) Before the qualifying period opens, the supervisor
9 of elections shall determine whether a charge shall be levied
10 against a candidate for filing a candidate statement. This
11 decision shall not be revoked or modified after the 7th day
12 prior to the opening of the qualifying period. A written
13 statement of regulations relating to charges for handling,
14 packaging, and mailing shall be provided to each candidate or
15 his or her representative at the time he or she receives the
16 qualifying papers.

17 (5) Any candidate statement submitted by a candidate
18 for judicial office shall be limited to a recitation of the
19 candidate's own personal background and qualifications and
20 shall not in any way make reference to other candidates for
21 judicial office or to another candidate's qualifications,
22 character, or activities. The supervisor of elections shall
23 not cause to be printed or mailed any statement that the
24 supervisor of elections determines does not comply with the
25 provisions of this subsection.

26 Section 8. Section 101.2607, Florida Statutes, is
27 created to read:

28 101.2607 Inability of candidates to pay fee.--

29 (1) Notwithstanding s. 101.2606, if a candidate claims
30 to be indigent and unable to pay, in advance, the requisite
31 fee for submitting a candidate statement, the candidate shall

1 submit to the supervisor of elections a statement of financial
2 worth to be used in determining whether he or she is eligible
3 to submit a candidate statement without advance payment of the
4 fee.

5 (2) The statement of financial worth required by this
6 section shall be submitted by the candidate together with his
7 or her candidate statement in accordance with the deadline
8 specified in s. 101.2606. The statement of financial worth
9 form shall be furnished by the supervisor of elections and may
10 include questions relating to the candidate's employer,
11 income, real estate holdings, tangible personal property, and
12 financial obligations. The candidate shall certify the truth
13 and correctness of the content of the statement under penalty
14 of perjury. The candidate shall also sign a release form
15 authorizing disclosure of his or her most recent federal
16 income tax return.

17 (3) Upon receipt of a statement of financial worth,
18 the supervisor of elections shall determine whether the
19 candidate is indigent and shall notify the candidate of his or
20 her findings.

21 (4) If it is determined that the candidate is not
22 indigent, the candidate shall, within 3 days after the
23 notification, excluding Saturdays, Sundays, and state
24 holidays, withdraw the statement or pay the requisite fee. If
25 the candidate fails to respond within the time prescribed, the
26 supervisor of elections shall not be obligated to print and
27 mail the statement.

28 (5) If the supervisor of elections determines that the
29 candidate is indigent, the statement shall printed and mailed
30 at no cost to the candidate.
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1 (6) Nothing in this section shall prohibit the
2 supervisor of elections from billing a nonindigent candidate
3 for his or her actual pro rata share of the cost of the
4 statement after the election.

5 Section 9. Section 101.2608, Florida Statutes, is
6 created to read:

7 101.2608 Candidate statement pamphlet format;
8 caveat.--Each supplemental candidate statement pamphlet
9 prepared pursuant to s. 101.2606 shall contain a statement in
10 the heading of the first page, in at least 10-point bold
11 gothic type, that:

12 (1) If any candidate is not listed in the candidate
13 statement pamphlet, the pamphlet does not contain a complete
14 list of candidates and that a complete list of candidates
15 appears on the sample ballot.

16 (2) Each candidate statement in the pamphlet is
17 volunteered by the candidate and whether the candidate
18 statement is printed at the candidate's expense.

19 Section 10. Section 101.2609, Florida Statutes, is
20 created to read:

21 101.2609 Public examination of candidate statements;
22 right to seek writ of mandamus.--

23 (1) The supervisor of elections shall make a copy of
24 candidate statements available for public examination in the
25 supervisor of elections' office for a period of 10 calendar
26 days immediately following the filing deadline for submission
27 of candidate statements. Any person may obtain a copy of the
28 candidate statements from the supervisor of elections for use
29 outside of the supervisor of elections' office. The supervisor
30 of elections may charge a fee to any person obtaining a copy
31 of the candidate statements; however, the fee may not exceed

1 the actual cost incurred by the supervisor of elections in
2 providing the copy.

3 (2) During the 10-day public examination period
4 provided by this section, the supervisor of elections or any
5 voter registered in the jurisdiction in which the election is
6 being held may seek a writ of mandamus or an injunction
7 requiring any or all of the material in the candidate
8 statements to be amended or deleted. The action for writ of
9 mandamus or injunction shall be filed no later than the end of
10 the 10-day public examination period.

11 (3) A peremptory writ of mandamus or an injunction
12 shall be issued only upon clear and convincing evidence that
13 the material in question is false, misleading, or inconsistent
14 with the requirements of s. 101.2605 and that issuance of the
15 writ or injunction shall not substantially interfere with the
16 printing or distribution of official elections materials as
17 provided by law.

18 (4) The supervisor of elections shall be named as
19 respondent, and the candidate who authored the material in
20 question shall be named as the real party in interest. In the
21 case of the supervisor of elections bringing the mandamus or
22 injunctive action pursuant to this section, the board of
23 county commissioners shall be named as the respondent, and the
24 candidate who authored the material in question shall be named
25 as the real party in interest.

26 Section 11. Section 101.2610, Florida Statutes, is
27 created to read:

28 101.2610 Voter's writ of mandamus; error in voting
29 material.--

30 (1) Any voter may seek a writ of mandamus alleging
31 that an error or omission has occurred or is about to occur in

1 the placing of any name on a ballot, sample ballot, ballot
2 pamphlet, or other official matter or in the printing of a
3 ballot, sample ballot, ballot pamphlet, or other official
4 matter or that any neglect of duty relating to the placing of
5 any name on a ballot, sample ballot, ballot pamphlet, or other
6 official matter or in the printing of a ballot, sample ballot,
7 ballot pamphlet, or other official matter has occurred or is
8 about to occur.

9 (2) A peremptory writ of mandamus shall be issued only
10 upon evidence of the following:

11 (a) The error, omission, or neglect is in violation of
12 ss. 101.2601-101.2611 or the State Constitution.

13 (b) The issuance of the writ will not substantially
14 interfere with the conduct of the election.

15 (3) The action or appeal shall have priority over all
16 other civil matters.

17 (4) Venue for a proceeding under this section shall be
18 exclusively in Leon County in any of the following instances:

19 (a) The Secretary of State is named as a real party in
20 interest or as a respondent.

21 (b) A candidate for statewide elective office is named
22 as a party.

23 (c) A statewide measure that is to be placed on the
24 ballot is the subject of the proceeding.

25 Section 12. Section 101.2611, Florida Statutes, is
26 created to read:

27 101.2611 Mailing of ballot pamphlets.--

28 (1) The Secretary of State shall deliver printed
29 ballot pamphlets to each supervisor of elections in adequate
30 time for each supervisor of elections to mail the ballot
31 pamphlets to voters before the election at which measures

1 contained in the ballot pamphlet are to be voted on unless a
2 voter has registered fewer than 29 days before the election.
3 The mailing shall commence not fewer than 40 days before the
4 election and shall be completed no later than 21 days before
5 the election to voters who registered on or before the 60th
6 day before the election. The supervisor of elections shall
7 mail one copy of the ballot pamphlet to each registered voter
8 at the postal address stated on the voter's registration
9 record. The supervisor of elections may mail only one ballot
10 pamphlet to two or more registered voters having the same
11 surname and the same postal address.

12 (2) No later than 10 days before the election, the
13 supervisor of elections shall mail ballot pamphlets to voters
14 registering after the 60th day before the election and before
15 the 28th day before the election.

16 (3) The supervisor of elections shall mail a ballot
17 pamphlet to any person requesting a ballot pamphlet. Three
18 copies of the ballot pamphlet, to be supplied by the Secretary
19 of State, shall be kept at every polling place for the voters
20 while an election is in progress.

21 (4) Any costs incurred by a county for mailing the
22 ballot pamphlets shall be reimbursed to the county by the
23 Secretary of State.

24 (5) If applicable, the supervisor of elections shall
25 include and mail with each ballot pamphlet a supplement
26 containing candidate statements.

27 Section 13. This act shall take effect July 1, 2006.
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