

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1155 Campaign Financing

SPONSOR(S): Economic Expansion & Infrastructure & Williams

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF
DIRECTOR				
1)	Economic Expansion & Infrastructure Council	13 Y, 0 N, As CS	Mitchell	Tinker
2)	Policy & Budget Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

HB 1155 represents the 2008 legislative recommendations of the Department of State's Division of Elections (Division) and makes changes to Florida's campaign finance laws contained in ch. 106, F.S. The bill:

- provides for the filing of several qualifying documents with the filing officer, rather than the Division;
- changes the filing dates for reports of candidates and committees to conform to the change in qualifying dates made during the 2007 legislative session (CS/HB 537; ch. 2007-30, Laws of Fla);
- changes several sections of the Election Code in order to match the electronic campaign filing system now used by the Division; and
- repeals obsolete language.

HB 1155 is effective January 1, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

HB 1155 makes several changes to Florida's campaign finance laws that are contained in ch. 106, F.S. The bill:

- provides for the filing of several qualifying documents with the filing officer, rather than the Division;
- changes the filing dates for reports of candidates and committees to conform to the change in qualifying dates made during the 2007 legislative session (CS/HB 537; ch. 2007-30, Laws of Fla);
- changes several sections of the Election Code in order to match the electronic campaign filing system now used by the Division; and
- repeals obsolete language.

Division Responsibilities

The Bureau of Election Records (Bureau) within the Division, is the custodian of election-related records including candidate qualifying documents, campaign financial activity, election results, suspensions and reinstatements of elected and appointed officials, and appointments and commissions of public officials. The Bureau conducts candidate qualifying, holds candidate and committee workshops, maintains candidate and committee handbooks, provides certain services to the Florida Elections Commission and provides assistance to citizens, candidates and committees on a variety of questions related to election records and campaign finance. In non-election years, the Bureau provides assistance to approximately 17,000 callers. Chapter 106, F.S., is the chapter addressing campaign finance in the State of Florida.

Filing and Reporting Requirements of Committees, Electioneering Communication Organizations and Party Executive Committees

HB 1155 consolidates reporting of various documents relating to a candidate or committee in one location. It provides clarification relating to the filing of campaign reports and streamlines information required of a committee when it files a statement of organization.

The bill requires committees and electioneering communications organizations (ECO's) to file their appointment of registered office and registered agent with the officer before whom they register. By following this procedure, all filing documents relating to a committee or ECO can be found in one location. It also requires political committees and committees of continuous existence (CCE's) who are participating in local elections (not in conjunction with a state or federal election) to file reports with the *local* filing officer (typically, the supervisor of elections).

The bill clarifies the calculation of late-filing fines for CCE's to account for electronic filing of campaign reports. In addition, county executive committees would be required to file in-kind contribution notices with the supervisor of elections rather than the Division.

Electronic Filing and Updated Report Filing Dates

Currently, many reports are filed electronically with the Division, but many reports referenced in the statutes were not updated to provide for electronic filing of such reports. This creates a part electronic, part paper filing system. This bill extends the electronic filing requirement for candidates qualifying with the Division to include loan reports, termination reports and office account reports. The bill deletes the requirement of printed campaign reports for candidates receiving public financing as these reports are now filed electronically.

The reporting dates for candidates and committees are amended due to the changes in qualifying dates made in 2007 legislation (amendments to s. 99.061, F.S.; s. 16, ch. 2007-30, Laws of Fla). Candidates for state or multicounty office will now qualify beginning at noon of the 71st day prior to the primary election (rather than the 50th day) and ending at noon on the 67th day prior to the primary election (rather than the 46th day). In 2008, qualifying by such candidates will occur June 16-20, 2008. As many candidates and committees will now be filing reports in May and June, these entities will be required to file a July quarterly report, so that there is not a large gap between qualifying in May and filing an October quarterly campaign report.

Dissolution/Cancellation of ECO's

ECO's that register with the Division remain on the books almost indefinitely, thereby committing Division staff time and resources without necessarily benefiting the organization. The bill expands the rulemaking authority of the Division to promulgate rules regarding the manner in which these organizations may be dissolved and registrations canceled. The rulemaking process provides ample time and comment from the public and affected organizations to adequately resolve this issue.

Disclaimers for Political Advertisements

Finally, disclaimers on political advertisements are revised to provide for candidate websites and ads jointly endorsing three or more candidates. The bill allows for an abbreviation for "paid political advertisement" and clarifies that advertisements for nonpartisan candidates are not required to include the party affiliation of the candidate.

Miscellaneous Changes

Other changes include:

- clarification of information necessary on the statement of organization for political committees;
- notification for incomplete candidate or committee reports to be sent by certified mail rather than registered mail;
- transaction information on credit card statements to be included on campaign reports rather than a physical copy of each credit card statement;

- deleting certain requirements for use of campaign debit cards;
- assessment of fines for late-filing reports in a special primary or special general election; and
- permitting candidates who receive public financing to spend funds to purchase “thank you” ads, pay for obligated expenses, and pay for expenses necessary to close down the campaign office prior to repaying any surplus funds to the state.

Effective Date

The bill is effective January 1, 2009.

C. SECTION DIRECTORY:

Section 1. Amends s. 106.011, F.S., to include in the definition of “political committee” the sponsor of a petition-revocation initiative.

Section 2. Amends s. 106.022, F.S., to provide that a political committee, committee of continuous existence or electioneering communication organization must file with the *filing officer* (and not necessarily the Division) the statement of appointment for the registered office and registered agent.

Section 3. Amends s. 106.03, F.S., to provide additional registration requirements for electioneering communication organizations, including the adoption of rules governing the dissolution of such organizations.

Section 4. Amends s. 106.04, F.S., to provide that CCE’s that make contributions or expenditures to influence local elections (that are not being held in conjunction with state or federal elections) must file their campaign treasurers’ reports with the local filing officer. In addition, the section provides that fines for late-filed reports that are due immediately preceding a primary or general election shall be \$500 per day, not to exceed 25 percent of the total receipts or expenditures of the CCE, whichever is greater, for the reporting period. Fines for late-filing at the local level shall be deposited in the general revenue fund of the applicable political subdivision.

Section 5. Amends s. 106.07, F.S., to provide new reporting dates for candidates and committees. For candidate reports, a campaign treasurer may be notified of an incomplete report in writing, by telephone or in person (rather than by registered mail) and given 7 days (rather than 3 days) to provide the necessary information.

Section 6. Amends s. 106.0705, F.S., to provide that persons who file reports under the surplus funds section of the Election Code, s. 106.141, F.S., must do so using the Division’s electronic filing system.

Section 7. Amends s. 106.08, F.S., to delete obsolete language relating to independent and minor party candidates and the acceptance of campaign contributions. Such candidates now qualify at the same time as major party candidates, making the deleted language unnecessary. The section, as amended, also provides that local executive committees of political parties must file their notices of acceptance of in-kind contributions with the supervisor of elections, as the local filing officer.

Section 8. Amends s. 106.11, F.S., to delete the requirement that a debit card issued to a candidate's campaign expire on the last day of the month of the general election; it also deletes the requirement that a candidate submit a list of authorized users of a campaign debit card to the Division prior to using the card.

Section 9. Amends s. 106.141, F.S., to provide that a candidate participating in the public campaign matching funds program found in ss. 106.30-106.36, F.S., may spend campaign funds to purchase "thank you" ads, pay for obligated expenses, and pay for expenses necessary to close down the campaign office prior to repaying surplus funds to the state.

Section 10. Amends s. 106.143, F.S., to provide that nonpartisan candidates shall omit any reference to party affiliation in paid political advertisements.

Section 11. Creates s. 106.14325, F.S., to provide that certain advertisements that are authorized, approved or operated by a candidate shall contain a political disclaimer as outlined in the new section.

Section 12. Conforming amendment to s. 106.1437, F.S., to require political disclaimers in miscellaneous advertisements on the Internet.

Section 13. Amends s. 106.29, F.S., to provide that a state executive committee file its reports with the Division, but deletes the requirement that the executive committee file an original *and* one copy of its reports. In addition, the section, as amended, provides that notice of late-filing of reports under the section may be done by written notice to the mailing *or* street address of record for the executive committee.

Section 14. Conforming amendment to s. 106.35, F.S., to delete references to printed reports that were previously filed by candidates who participate in the public matching funds program. Pursuant to section 6 of the bill, such candidates will be required to file using the electronic campaign filing system of the Division.

Section 15. Provides an effective date of January 1, 2009.

II. 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:

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Election laws are exempt from the mandates provisions of s. 18(a), Art. VII, Fla.Const.

2. Other:

B. RULE-MAKING AUTHORITY:

New rulemaking authority relating to ECO's is contained in section 3 of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

HB 1155 is the Department of State's legislation, streamlining and clarifying the campaign financing statutes. The statutes have been updated to reflect the capability of electronic filings in several different locations. Also, duplicative filings of the same data have been deleted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 1, 2008, the Economic Expansion & Infrastructure Council adopted one amendment deleting the requirement that a list of authorized users of a campaign debit card be filed with the Division before the card may be used.