

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Rules Committee

BILL: CS/SB 1596

INTRODUCER: Rules Subcommittee on Ethics and Elections, Senator Diaz de la Portilla and others

SUBJECT: Elections

DATE: January 26, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton/Fox	Roberts	EE	Fav/CS
2.	Carlton	Phelps	RC	Pre-meeting
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Committee Substitute for Senate Bill 1596 fixes a glitch in polling place voter intake procedures, removing a prohibition that prevents poll workers from using the address on a voter’s photo identification (I.D.) to confirm the voter’s legal residence. The bill also provides that tickets and advertising for campaign fund raisers must comply with the same sponsorship disclaimer requirements as political advertisements. Finally, the bill clarifies how a candidate’s or political committee’s campaign depository account must be titled and how it must appear on associated checks and debit cards, eliminating a technical requirement that they include the specific words “Campaign Account.”

The bill takes effect upon becoming law.

This bill substantially amends the following sections of the Florida Statutes: ss. 101.043, 106.025, 106.05, and 106.11.

II. Present Situation:

Voter Intake Procedures at the Polls

In 2011, the Legislature enacted a major election reform bill¹ (“2011 Act”). The 2011 Act prohibits the address appearing on a voter’s picture I.D. from serving as the basis to confirm or challenge an elector’s legal residence at the polls.² The 2011 Act also provides that once an elector presents his or her picture identification, the elector may not be asked to provide additional information or to recite his or her home address — if the address on the photo I.D. matches the one on file with the supervisor.³

These two new provisions drastically complicate the procedures for confirming an elector’s legal residence, and effectively present a *Catch-22* in the majority of cases. For example, assume the following: An elector arrives at his or her polling place and presents a driver’s license (or other statutorily-authorized picture I.D.) upon entering, as required by law.⁴ The address on the driver’s license matches the voter’s address in the supervisor’s records. Under the new law, the driver’s license address cannot be used to confirm or challenge the voter’s legal address.⁵ To further complicate matters, a poll worker would also be prohibited from asking the elector to provide any additional information or to recite his home address after presenting the picture I.D., since the address on the I.D. matches the supervisor’s records.⁶ As a result of these conflicting provisions, the poll worker can’t confirm the elector’s legal address in compliance with *both* prohibitions in the new law.⁷

Campaign Fundraisers

Political advertisements circulated prior to the election are governed by Section 106.143, F.S. That section requires certain sponsorship disclaimers and disclosures for any paid political advertisement that is published, displayed, or circulated on or before election day.⁸ If a political advertisement is made as an in-kind contribution, the advertisement must contain a disclosure identifying it as such.⁹ A political advertisement is required to identify the candidate’s party, if he or she is seeking nomination from a political party, or that the candidate is running with no party affiliation.¹⁰ If a candidate is running for a nonpartisan office, he or she is prohibited from identifying his or her party affiliation.¹¹ Political advertisements, other than independent

¹ Ch. 2001-40, LAWS OF FLA.

² *Id.* at s. 25, p. 618 (codified at s. 101.43(1)(b), F.S. (2011))

³ *Id.* at s. 25, p. 618 (codified at s. 101.43(1)(c), F.S. (2011))

⁴ Section 101.043(1), F.S.

⁵ Section 101.043(1)(b), F.S.

⁶ Section 101.043(1)(c), F.S.

⁷ By way of a “work around,” the Florida Division of Elections Polling Place Procedures Manual has been amended to effectively allow poll worker to use the address on the voter’s picture I.D. to confirm the elector’s legal address if it matches the address on the precinct register — without explicitly so providing. See DOE Rule 1S-2.034, F.A.C. (Form DS-DE 11, at p.8-9 (effective January 2012)).

⁸ Section 106.143(1), F.S.

⁹ Section 106.143(2), F.S.

¹⁰ Section 106.143(3), F.S.

¹¹ *Id.*

expenditures, not paid for by a candidate are required to be approved by the candidate in advance and identify the person paying for the advertisement.¹²

The 2011 Act struck down a requirement that campaign fund raiser tickets and advertising comply with the disclaimer requirements applicable to political advertisements.¹³ As a result, such tickets and advertising are exempt from sponsorship disclaimer requirements — unless they were to otherwise meet the definition of a political advertisement.

Candidate and Political Committee Campaign Accounts

Section 106.05, F.S., requires all funds received by the campaign treasurer of any candidate or political committee to be deposited into a campaign depository in an account designated “(name of candidate or committee) Campaign Account.”

Section 106.11, F.S., requires that all checks drawn on the campaign depository and all debit cards contain the statement “(name of candidate or political committee)...Campaign Account.”

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1596 resolves two issues in the major election act of 2011, one relating to voter intake procedures at the polls and the other concerning disclaimers on fundraising materials.¹⁴ Specifically the bill does the following:

- *Allows* poll workers to use the address on a voter’s picture I.D. to confirm the voter’s legal address (to harmonize with another newly-enacted provision prohibiting poll workers from asking the voter for additional home address information once the voter has presented his or her picture I.D. and it matches the address on the precinct register); and,
- Re-instates a requirement that tickets and advertising for campaign fund raisers must contain sponsorship disclaimers and meet other requirements applicable to political advertisements in s. 106.143, F.S.

The bill also removes the formal requirement that the campaign depository, and checks and debit cards associated therewith, contain the phrase “Campaign Account,” to better conform to some banks’ current practices. The campaign depository must still contain the name of the candidate or political committee; checks and debit cards must contain the name of the campaign account for the candidate or political committee. Further, the campaign account must still remain *separate* from any personal or other account and can only be used for the purpose of depositing contributions and making expenditures,¹⁵ thereby preserving the prohibition against

¹² Section 106.143(5), F.S.

¹³ Ch. 2001-40, at s. 56, p. 645, LAWS OF FLA. (codified at s. 106.025(1)(c), F.S. (2011)). The 2011 Act also deleted a somewhat redundant specific disclaimer that provided as follows: “The purchase of a ticket for, or a contribution to, the campaign fund raiser is a contribution to the campaign of (name of the candidate for whose benefit the campaign fund raiser is held).” *Id.*

¹⁴ Neither of these provisions is currently at issue in the pending federal preclearance litigation, *State of Florida v. U.S.A. and Holder*, No. 1:11-cv-01428-CKK-MG-ESH (D.D.C. 2011).

¹⁵ Section 106.11(1)(a), F.S.

commingling personal and campaign funds. Removing the specific-words requirement should diminish the prospect for complaints being filed, and fines being assessed, against public officials for hyper-technical, *de minimus* violations regarding the form of the campaign account name.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Rules Subcommittee on Ethics and Elections on January 23, 2012:

The Committee Substitute re-instates the current prohibition against using the address on a voter's picture I.D. to challenge the voter's legal residence, which was deleted in the original bill.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
