

By Senator Gibson

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1                   A bill to be entitled  
2           An act relating to nonpartisan elections for state  
3           attorneys and public defenders; amending s. 99.061,  
4           F.S.; revising provisions governing candidate  
5           qualifying to conform with the redesignation of the  
6           offices of state attorney and public defender as  
7           nonpartisan offices; amending s. 100.111, F.S.;  
8           removing the requirement that a state political party  
9           chair provide certain notification in the event of a  
10          vacancy in nomination for the office of state attorney  
11          or public defender, to conform; amending s. 101.151,  
12          F.S.; revising specifications for ballot layout to  
13          conform with the redesignation of the offices of state  
14          attorney and public defender as nonpartisan offices;  
15          amending s. 105.031, F.S.; revising provisions  
16          governing candidate qualifying for nonpartisan offices  
17          to include candidates for the offices of state  
18          attorney and public defender; amending s. 105.035,  
19          F.S.; adding candidates for the offices of state  
20          attorney and public defender to the list of candidates  
21          who may qualify for election by a specified petition  
22          process, in lieu of a qualifying fee; amending s.  
23          105.041, F.S.; requiring that the listing of  
24          candidates on a ballot for the offices of state  
25          attorney and public defender identify the applicable  
26          judicial circuit; requiring that space be made  
27          available on the general election ballot if a write-in  
28          candidate has qualified to run for the office of state  
29          attorney or public defender; amending s. 105.051,  
30          F.S.; prohibiting the name of an unopposed candidate  
31          for the office of state attorney or public defender  
32          from appearing on any ballot; amending s. 105.061,

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33 F.S.; specifying that a qualified elector of a  
34 judicial circuit is eligible to vote for a candidate  
35 for the office of state attorney or public defender of  
36 that circuit; amending s. 105.08, F.S.; specifying  
37 applicability of campaign financing and reporting  
38 requirements to candidates for the office of state  
39 attorney or public defender; amending s. 105.09, F.S.;  
40 prohibiting a political party or partisan political  
41 organization from endorsing, supporting, or assisting  
42 any candidate in a campaign for election to the office  
43 of state attorney or public defender; providing a  
44 penalty; providing an effective date.

45  
46 Be It Enacted by the Legislature of the State of Florida:

47  
48 Section 1. Subsection (1) of section 99.061, Florida  
49 Statutes, is amended to read:

50 99.061 Method of qualifying for nomination or election to  
51 federal, state, county, or district office.—

52 (1) The provisions of any special act to the contrary  
53 notwithstanding, each person seeking to qualify for nomination  
54 or election to a federal, state, or multicounty district office,  
55 other than election to a judicial office as defined in chapter  
56 105, the office of state attorney or public defender, or the  
57 office of school board member, shall file his or her  
58 qualification papers with, and pay the qualifying fee, which  
59 shall consist of the filing fee and election assessment, and  
60 party assessment, if any has been levied, to, the department ~~of~~  
61 ~~State~~, or qualify by the petition process pursuant to s. 99.095

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62 with the department ~~of State~~, at any time after noon of the 1st  
63 day for qualifying, which shall be as follows: the 120th day  
64 before ~~prior to~~ the primary election, but not later than noon of  
65 the 116th day before ~~prior to~~ the date of the primary election,  
66 for persons seeking to qualify for nomination or election to  
67 federal office ~~or to the office of the state attorney or the~~  
68 ~~public defender~~; and noon of the 71st day before ~~prior to~~ the  
69 primary election, but not later than noon of the 67th day before  
70 ~~prior to~~ the date of the primary election, for persons seeking  
71 to qualify for nomination or election to a state or multicounty  
72 district office, other than the office of the state attorney or  
73 the public defender.

74 Section 2. Paragraph (a) of subsection (3) of section  
75 100.111, Florida Statutes, is amended to read:

76 100.111 Filling vacancy.—

77 (3) (a) In the event that death, resignation, withdrawal, or  
78 removal should cause a party to have a vacancy in nomination  
79 which leaves no candidate for an office from such party, the  
80 filing officer before whom the candidate qualified shall notify  
81 the chair of the state and county political party executive  
82 committee of such party and:

83 1. If the vacancy in nomination is for a statewide office,  
84 the state party chair shall, within 5 days, call a meeting of  
85 his or her executive board to consider designation of a nominee  
86 to fill the vacancy.

87 2. If the vacancy in nomination is for the office of United  
88 States Representative, state senator, or state representative,  
89 ~~state attorney, or public defender~~, the state party chair shall  
90 notify the appropriate county chair or chairs and, within 5

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91 days, the appropriate county chair or chairs shall call a  
92 meeting of the members of the executive committee in the  
93 affected county or counties to consider designation of a nominee  
94 to fill the vacancy.

95 3. If the vacancy in nomination is for a county office, the  
96 state party chair shall notify the appropriate county chair and,  
97 within 5 days, the appropriate county chair shall call a meeting  
98 of his or her executive committee to consider designation of a  
99 nominee to fill the vacancy.

100  
101 The name of any person so designated shall be submitted to the  
102 filing officer before whom the candidate qualified within 7 days  
103 after notice to the chair in order that the person designated  
104 may have his or her name on the ballot of the ensuing general  
105 election. If the name of the new nominee is submitted after the  
106 certification of results of the preceding primary election,  
107 however, the ballots may ~~shall~~ not be changed and the former  
108 party nominee's name will appear on the ballot. Any ballots cast  
109 for the former party nominee will be counted for the person  
110 designated by the political party to replace the former party  
111 nominee. If there is no opposition to the party nominee, the  
112 person designated by the political party to replace the former  
113 party nominee will be elected to office at the general election.

114 Section 3. Paragraph (a) of subsection (2) of section  
115 101.151, Florida Statutes, is amended to read:

116 101.151 Specifications for ballots.—

117 (2) (a) The ballot must include the following office titles  
118 above the names of the candidates for the respective offices in  
119 the following order:

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120           1. The office titles of President and Vice President above  
121 the names of the candidates for President and Vice President of  
122 the United States nominated by the political party that received  
123 the highest vote for Governor in the last general election of  
124 the Governor in this state, followed by the names of other  
125 candidates for President and Vice President of the United States  
126 who have been properly nominated.

127           2. The office titles of United States Senator and  
128 Representative in Congress.

129           3. The office titles of Governor and Lieutenant Governor;  
130 Attorney General; Chief Financial Officer; and Commissioner of  
131 Agriculture; ~~State Attorney, with the applicable judicial~~  
132 ~~circuit; and Public Defender, with the applicable judicial~~  
133 ~~circuit.~~

134           4. The office titles of State Senator and State  
135 Representative, with the applicable district for the office  
136 printed beneath.

137           5. The office titles of Clerk of the Circuit Court or, when  
138 the Clerk of the Circuit Court also serves as the County  
139 Comptroller, Clerk of the Circuit Court and Comptroller, when  
140 authorized by law; Clerk of the County Court, when authorized by  
141 law; Sheriff; Property Appraiser; Tax Collector; District  
142 Superintendent of Schools; and Supervisor of Elections.

143           6. The office titles of Board of County Commissioners, with  
144 the applicable district printed beneath each office, and such  
145 other county and district offices as are involved in the  
146 election, in the order fixed by the Department of State,  
147 followed, in the year of their election, by "Party Offices," and  
148 thereunder the offices of state and county party executive

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149 committee members.

150 Section 4. Section 105.031, Florida Statutes, is amended to  
151 read:

152 105.031 Qualification; filing fee; candidate's oath; items  
153 required to be filed.—

154 (1) TIME OF QUALIFYING.—Except for candidates for judicial  
155 office and for the office of state attorney or public defender,  
156 nonpartisan candidates for multicounty office shall qualify with  
157 the division ~~of Elections of the Department of State~~ and  
158 nonpartisan candidates for countywide or less than countywide  
159 office shall qualify with the supervisor of elections.

160 Candidates for judicial office, other than the office of county  
161 court judge, and candidates for the office of state attorney or  
162 public defender shall qualify with the division ~~of Elections of~~  
163 ~~the Department of State~~, and candidates for the office of county  
164 court judge shall qualify with the supervisor of elections of  
165 the county. Candidates for judicial office and for the office of  
166 state attorney or public defender shall qualify no earlier than  
167 noon of the 120th day, and no later than noon of the 116th day,  
168 before the primary election. Candidates for the office of school  
169 board member shall qualify no earlier than noon of the 71st day,  
170 and no later than noon of the 67th day, before the primary  
171 election. Filing shall be on forms provided for that purpose by  
172 the division ~~of Elections~~ and furnished by the appropriate  
173 qualifying officer. Any person other than a write-in candidate  
174 who qualifies within the time prescribed in this subsection is  
175 ~~shall be~~ entitled to have his or her name printed on the ballot.

176 (2) FILING IN GROUPS OR DISTRICTS.—Candidates shall qualify  
177 in groups or districts where multiple offices are to be filled.

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178 (3) QUALIFYING FEE.—Each candidate qualifying for election  
179 to a judicial office, the office of state attorney or public  
180 defender, or the office of school board member, except write-in  
181 ~~judicial or school board~~ candidates for such offices, shall,  
182 during the time for qualifying, pay to the officer with whom he  
183 or she qualifies a qualifying fee, which shall consist of a  
184 filing fee and an election assessment, or qualify by the  
185 petition process. The amount of the filing fee is 3 percent of  
186 the annual salary of the office sought. The amount of the  
187 election assessment is 1 percent of the annual salary of the  
188 office sought. The department ~~of State~~ shall transfer all filing  
189 fees to the Department of Legal Affairs for deposit in the  
190 Elections Commission Trust Fund. The supervisor of elections  
191 shall forward all filing fees to the Elections Commission Trust  
192 Fund. The election assessment shall be deposited into the  
193 Elections Commission Trust Fund. The annual salary of the office  
194 for purposes of computing the qualifying fee shall be computed  
195 by multiplying 12 times the monthly salary authorized for such  
196 office as of July 1 immediately preceding the first day of  
197 qualifying. This subsection does not apply to candidates  
198 qualifying for retention to judicial office.

199 (4) CANDIDATE'S OATH.—

200 (a) All candidates for the office of state attorney, public  
201 defender, or school board member shall subscribe to the oath as  
202 prescribed in s. 99.021.

203 (b) All candidates for judicial office shall subscribe to  
204 an oath or affirmation in writing to be filed with the  
205 appropriate qualifying officer upon qualifying. A printed copy  
206 of the oath or affirmation shall be furnished to the candidate

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207 by the qualifying officer and shall be in substantially the  
 208 following form:

209  
 210 State of Florida  
 211 County of ....

212 Before me, an officer authorized to administer oaths,  
 213 personally appeared ... (please print name as you wish it to  
 214 appear on the ballot) ..., to me well known, who, being sworn,  
 215 says he or she: is a candidate for the judicial office of ....;  
 216 that his or her legal residence is .... County, Florida; that he  
 217 or she is a qualified elector of the state and of the  
 218 territorial jurisdiction of the court to which he or she seeks  
 219 election; that he or she is qualified under the constitution and  
 220 laws of Florida to hold the judicial office to which he or she  
 221 desires to be elected or in which he or she desires to be  
 222 retained; that he or she has qualified for no other public  
 223 office in the state, the term of which office or any part  
 224 thereof runs concurrent to the office he or she seeks; that he  
 225 or she has resigned from any office which he or she is required  
 226 to resign pursuant to s. 99.012, Florida Statutes; and that he  
 227 or she will support the Constitution of the United States and  
 228 the Constitution of the State of Florida.

229  
 230 ... (Signature of candidate) ...  
 231 ... (Address) ...

232  
 233 Sworn to and subscribed before me this .... day of .....,  
 234 ... (year) ..., at .... County, Florida.

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236           ...(Signature and title of officer administering oath)...

237

238           (5) ITEMS REQUIRED TO BE FILED.—

239           (a) In order for a candidate for judicial office or the  
240 office of state attorney, public defender, or school board  
241 member to be qualified, the following items must be received by  
242 the filing officer by the end of the qualifying period:

243           1. Except for candidates for retention to judicial office,  
244 a properly executed check drawn upon the candidate's campaign  
245 account in an amount not less than the fee required by  
246 subsection (3) or, in lieu thereof, the copy of the notice of  
247 obtaining ballot position pursuant to s. 105.035. If a  
248 candidate's check is returned by the bank for any reason, the  
249 filing officer shall immediately notify the candidate and the  
250 candidate shall, the end of qualifying notwithstanding, have 48  
251 hours from the time such notification is received, excluding  
252 Saturdays, Sundays, and legal holidays, to pay the fee with a  
253 cashier's check purchased from funds of the campaign account.  
254 Failure to pay the fee as provided in this subparagraph shall  
255 disqualify the candidate.

256           2. The candidate's oath required by subsection (4), which  
257 must contain the name of the candidate as it is to appear on the  
258 ballot; the office sought, including the district or group  
259 number if applicable; and the signature of the candidate, duly  
260 acknowledged.

261           3. The loyalty oath required by s. 876.05, signed by the  
262 candidate and duly acknowledged.

263           4. The completed form for the appointment of campaign  
264 treasurer and designation of campaign depository, as required by



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294 required items must be received by the close of qualifying. A  
295 candidate's name as it is to appear on the ballot may not be  
296 changed after the end of qualifying.

297 (6) Notwithstanding the qualifying period prescribed in  
298 this section, a filing officer may accept and hold qualifying  
299 papers submitted not earlier than 14 days prior to the beginning  
300 of the qualifying period, to be processed and filed during the  
301 qualifying period.

302 Section 5. Section 105.035, Florida Statutes, is amended to  
303 read:

304 105.035 Petition process of qualifying for certain judicial  
305 offices and the offices of state attorney, public defender, and  
306 ~~the office of~~ school board member.—

307 (1) A person seeking to qualify for election to the office  
308 of circuit judge or county court judge or the office of state  
309 attorney, public defender, or school board member may qualify  
310 for election to such office by means of the petitioning process  
311 prescribed in this section. A person qualifying by this petition  
312 process is not required to pay the qualifying fee required by  
313 this chapter.

314 (2) The petition format shall be prescribed by the division  
315 ~~of Elections~~ and shall be used by the candidate to reproduce  
316 petitions for circulation. If the candidate is running for an  
317 office that will be grouped on the ballot with two or more  
318 similar offices to be filled at the same election, the  
319 candidate's petition must indicate, prior to the obtaining of  
320 registered electors' signatures, for which group or district  
321 office the candidate is running.

322 (3) Each candidate for election to a judicial office or the

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323 office of state attorney, public defender, or school board  
324 member shall obtain the signature of a number of qualified  
325 electors equal to at least 1 percent of the total number of  
326 registered electors of the district, circuit, county, or other  
327 geographic entity represented by the office sought as shown by  
328 the compilation by the department ~~of State~~ for the last  
329 preceding general election. A separate petition shall be  
330 circulated for each candidate availing himself or herself of ~~the~~  
331 ~~provisions of~~ this section. Signatures may not be obtained until  
332 the candidate has filed the appointment of campaign treasurer  
333 and designation of campaign depository pursuant to s. 106.021.

334 (4) (a) Each candidate seeking to qualify for election to  
335 the office of circuit judge, the office of state attorney or  
336 public defender, or the office of school board member from a  
337 multicounty school district pursuant to this section shall file  
338 a separate petition from each county from which signatures are  
339 sought. Each petition shall be submitted, before ~~prior to~~ noon  
340 of the 28th day preceding the first day of the qualifying period  
341 for the office sought, to the supervisor of elections of the  
342 county for which such petition was circulated. Each supervisor  
343 of elections to whom a petition is submitted shall check the  
344 signatures on the petition to verify their status as electors of  
345 that county and of the geographic area represented by the office  
346 sought. No later than the 7th day before the first date for  
347 qualifying, the supervisor shall certify the number shown as  
348 registered electors and submit such certification to the  
349 division ~~of Elections~~. The division shall determine whether the  
350 required number of signatures has been obtained for the name of  
351 the candidate to be placed on the ballot and shall notify the

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352 candidate. If the required number of signatures has been  
353 obtained, the candidate shall, during the time prescribed for  
354 qualifying for office, submit a copy of such notice and file his  
355 or her qualifying papers and oath prescribed in s. 105.031 with  
356 the division ~~of Elections~~. Upon receipt of the copy of such  
357 notice and qualifying papers, the division shall certify the  
358 name of the candidate to the appropriate supervisor or  
359 supervisors of elections as having qualified for the office  
360 sought.

361 (b) Each candidate seeking to qualify for election to the  
362 office of county court judge or the office of school board  
363 member from a single county school district pursuant to this  
364 section shall submit his or her petition, before ~~prior to~~ noon  
365 of the 28th day preceding the first day of the qualifying period  
366 for the office sought, to the supervisor of elections of the  
367 county for which such petition was circulated. The supervisor  
368 shall check the signatures on the petition to verify their  
369 status as electors of the county and of the geographic area  
370 represented by the office sought. No later than the 7th day  
371 before the first date for qualifying, the supervisor shall  
372 determine whether the required number of signatures has been  
373 obtained for the name of the candidate to be placed on the  
374 ballot and shall notify the candidate. If the required number of  
375 signatures has been obtained, the candidate shall, during the  
376 time prescribed for qualifying for office, submit a copy of such  
377 notice and file his or her qualifying papers and oath prescribed  
378 in s. 105.031 with the qualifying officer. Upon receipt of the  
379 copy of such notice and qualifying papers, such candidate shall  
380 be entitled to have his or her name printed on the ballot.

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381 Section 6. Subsections (2) and (4) of section 105.041,  
382 Florida Statutes, are amended to read:

383 105.041 Form of ballot.—

384 (2) LISTING OF CANDIDATES.—The order of nonpartisan offices  
385 appearing on the ballot shall be determined by the department ~~of~~  
386 ~~State~~. The names of candidates for election to each nonpartisan  
387 office shall be listed in alphabetical order. With respect to  
388 the office titles placed above the names of candidates for the  
389 offices of state attorney and public defender, the applicable  
390 judicial circuit must be identified. With respect to retention  
391 of justices and judges, the question "Shall Justice (or Judge)  
392 (name of justice or judge) of the (name of the court) be  
393 retained in office?" shall appear on the ballot in alphabetical  
394 order and thereafter the words "Yes" and "No."

395 (4) WRITE-IN CANDIDATES.—Space shall be made available on  
396 the general election ballot for an elector to write in the name  
397 of a write-in candidate for judge of a circuit court or county  
398 court, the office of state attorney or public defender, or  
399 member of a school board if a candidate has qualified as a  
400 write-in candidate for such office pursuant to s. 105.031. This  
401 subsection does ~~shall~~ not apply to the offices of justices and  
402 judges seeking retention.

403 Section 7. Paragraph (a) of subsection (1) of section  
404 105.051, Florida Statutes, is amended to read:

405 105.051 Determination of election or retention to office.—

406 (1) ELECTION.—In circuits and counties holding elections:

407 (a) The name of an unopposed candidate for the office of  
408 circuit judge, county court judge, state attorney, public  
409 defender, or member of a school board may ~~shall~~ not appear on

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410 any ballot, and such candidate shall be deemed to have voted for  
411 himself or herself at the general election.

412 Section 8. Present subsection (2) of section 105.061,  
413 Florida Statutes, is renumbered as subsection (3), and a new  
414 subsection (2) is added to that section, to read:

415 105.061 Electors qualified to vote.—

416 (2) Each qualified elector of a judicial circuit is  
417 eligible to vote for a candidate for the offices of state  
418 attorney and public defender of such circuit.

419 Section 9. Subsection (1) of section 105.08, Florida  
420 Statutes, is amended to read:

421 105.08 Campaign contribution and expense; reporting.—

422 (1) A candidate for judicial office, state attorney, public  
423 defender, or the office of school board member may accept  
424 contributions and may incur only such expenses as are authorized  
425 by law. Each such candidate shall keep an accurate record of his  
426 or her contributions and expenses, and shall file reports  
427 pursuant to chapter 106.

428 Section 10. Section 105.09, Florida Statutes, is amended to  
429 read:

430 105.09 Political activity on ~~in~~ behalf of a candidate for  
431 judicial office or the office of state attorney or public  
432 defender limited.—

433 (1) A ~~No~~ political party or partisan political organization  
434 may not ~~shall~~ endorse, support, or assist any candidate in a  
435 campaign for election to judicial office or the office of state  
436 attorney or public defender.

437 (2) Any person who knowingly, in an individual capacity or  
438 as an officer of an organization, violates ~~the provisions of~~

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439 this section commits ~~is guilty of~~ a misdemeanor of the second  
440 degree, punishable as provided in s. 775.082 or s. 775.083.

441 Section 11. This act shall take effect July 1, 2017.