

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 533 Disposition of Surplus Funds by Candidates
SPONSOR(S): Oversight, Transparency & Public Management Subcommittee; Payne
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1428

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	11 Y, 0 N, As CS	Toliver	Harrington
2) Public Integrity & Ethics Committee	16 Y, 0 N	Kiner	Rubottom
3) State Affairs Committee	21 Y, 0 N	Toliver	Williamson

SUMMARY ANALYSIS

Currently, a candidate who withdraws his or her candidacy, becomes unopposed in an election, or is eliminated or elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds. The candidate or former candidate, as the case may be, may dispose of his or her funds by four authorized methods:

- Return funds pro rata to each contributor;
- Donate the funds to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code;
- Rebate up to \$25,000 to the candidate's political party or an affiliated party committee; or
- Deposit funds to the General Revenue Fund, in the case of a candidate for state office, or to a local political subdivision, in the case of a candidate for local office.

However, a successful candidate has the additional option to transfer a certain amount of the surplus funds to an office account to be used for "legitimate expenses in connection with the candidate's public office."

The bill provides that if the surplus funds are disposed of by donation to a charitable organization, the candidate or the candidate's spouse, parent, child, or sibling are prohibited from being the principal of the organization. It also prohibits those persons from receiving a direct benefit in the form of compensation from the organization in exchange for the donation. Compensation includes any earnings, stipend, tips, or paid employment.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

A candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated or elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds.¹ Florida law generally provides former candidates with four options for disposing of surplus funds:

- Return funds pro rata to each contributor;
- Donate the funds to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code;
- Rebate up to \$25,000 to the candidate's political party or an affiliated party committee; or
- Deposit funds to General Revenue Fund, in the case of a candidate for state office, or to a local political subdivision, in the case of a candidate for local office.²

Before disposing of surplus funds, a candidate may expend funds from his or her campaign account to:

- Purchase "thank you" advertising for up to 75 days;
- Pay for items obligated before the candidate withdrew, became unopposed, or was eliminated or elected; and
- Pay for necessary expenses to close down the campaign office and prepare final reports.³

Successful candidates have the additional option to transfer a certain amount of the surplus funds to an "office account," to be used for "legitimate expenses in connection with the candidate's public office."⁴ Candidates receiving public campaign financing must return all excess funds to the State General Revenue Fund after paying for any items for which the campaign was liable before withdrawing, becoming unopposed, or being eliminated or elected.⁵

Effect of the Bill

The bill provides that if the surplus funds are disposed of by donation to a charitable organization, the candidate or the candidate's spouse, parent, child, or sibling are prohibited from being the principal of the organization. It also prohibits those persons from receiving a direct benefit in the form of compensation in exchange for the donation. Compensation includes any earnings, stipend, tips, or paid employment.

B. SECTION DIRECTORY:

Section 1 amends s. 106.141, F.S., relating to the disposition of surplus funds by candidates.

Section 2 provides an effective date of July 1, 2019.

¹ Section 106.141, F.S.

² Section 106.141(4), F.S.

³ Section 106.11(5), F.S.; *see also* Division of Elections, Candidate & Campaign Treasurer Handbook, available at <https://dos.myflorida.com/media/699202/candidate-and-campaign-treasurer-handbook-2018.pdf> (last visited March 20, 2019).

⁴ Section 106.141(5), F.S.

⁵ Section 106.141(4)(b), F.S.

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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution because it is a law concerning elections.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 25, 2019, the Oversight, Transparency & Public Management Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment narrows the bill to prohibit a candidate or his or her family members from being the principal of a charitable organization, after having donated surplus funds thereto, and prohibits the same from receiving a direct benefit in the form of compensation from the organization in exchange for the donation.

This analysis is drafted to the committee substitute as passed by the Oversight, Transparency & Public Management Subcommittee.