

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 55 Campaign Finance

SPONSOR(S): Jenne and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 396

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Public Management Subcommittee	12 Y, 0 N	Toliver	Harrington
2) Public Integrity & Ethics Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law places no restriction on the ability of a Governor, Lieutenant Governor, or a Cabinet member to solicit or accept a contribution during a session of the Legislature. However, the House of Representatives and the Senate have both created rules governing their respective bodies that prohibit their members from soliciting or accepting contributions during a regular, extended, or special legislative session.

The bill prohibits a Governor, Lieutenant Governor, or a Cabinet member from soliciting or accepting a contribution during the 60 days of the regular legislative session or during an extended or special session. The bill further provides that a Governor, Lieutenant Governor, or Cabinet member may not solicit or accept a contribution during this period on his or her own behalf, on behalf of a political party, on behalf of an organization that is exempt from taxation, or on behalf of a candidate for the Legislature or a candidate for the office of Governor, Lieutenant Governor, or Cabinet member.

The bill provides that a Governor, Lieutenant Governor, or a Cabinet member that knowingly and willingly accepts one contribution during a legislative session commits a misdemeanor of the first degree, however, if the official accepts two such contributions the official would commit a felony of the third degree.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Election Code

The Florida Election Code¹ places certain restrictions on the contributions a candidate can receive during the course of his or her campaign.² Those restrictions range from capping the amount an individual may contribute to a given campaign³ to prohibiting candidates from soliciting contributions from “any religious, charitable, civic, or other causes or organizations established primarily for the public good.”⁴

Currently, the only temporal restriction placed on campaign contributions to a candidate provides that if a candidate with opposition in an election receives a contribution on the day of an election or less than five days before that election, the contribution must be returned and may not be used or expended by or on behalf of the candidate.⁵ However, once elected the “candidate” becomes an “elected official,” and until such time as he or she becomes a candidate once more, the restrictions on contributions in the Florida Election Code cease to apply.

Florida Legislative Rules

The Florida Constitution requires each house of the Legislature to create rules of procedure to govern its members and proceedings.⁶ In House Rule 15.3(c) and Senate Rule 1.361, each chamber has decided to explicitly prohibit members of their respective bodies from soliciting or accepting contributions during a regular legislative session, extended session, or special session of the Legislature.

Effect of the Bill

The bill prohibits a Governor, Lieutenant Governor, or a Cabinet member from soliciting or accepting a contribution during the 60 days of the regular legislative session or during an extended or special session. A Governor, Lieutenant Governor, or a Cabinet member may not solicit or accept a contribution during this period on his or her own behalf, on behalf of a political party, on behalf of an organization that is exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, or on behalf of a candidate for the Legislature or a candidate for the office of Governor, Lieutenant Governor, or Cabinet member. The bill provides that a Governor, Lieutenant Governor, or a Cabinet member that knowingly or willingly accepts one contribution during a legislative session commits a misdemeanor of the first degree, however, if the official accepts two such contributions he or she would commit a felony of the third degree.

The bill specifies that a member of the Legislature is bound by the rules of his or her house pursuant to the Florida Constitution.

B. SECTION DIRECTORY:

Section 1 amends s. 106.08, F.S., relating to campaign contributions.

Section 2 provides an effective date of upon becoming a law.

¹ Section 97.011, F.S. Chapters 97-106, F.S., are known as the Florida Election Code.

² Section 106.08, F.S.

³ Section 106.08(1), F.S.

⁴ Section 106.08(5)(b), F.S.

⁵ Section 106.08(3)(a), F.S.

⁶ Article III, s. 4, FLA. CONST.

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 State Constitution because it is an election law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.