

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 Committee on Ethics and Elections

BILL: CS/SB 666

INTRODUCER: Ethics and Elections Committee and Senator Collins

SUBJECT: Form of Candidate Oath

DATE: March 8, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Biehl	Roberts	EE	Fav/CS
2.			JU	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 666 revises the oath format for certain candidates for office. Current law requires each candidate for a Florida office to sign a written oath or affirmation that includes, in part, the candidate's address. This bill specifies that the address in the oath or affirmation for a non-federal office must be the candidate's address of *legal residence*.

The bill takes effect July 1, 2023.

II. Present Situation:

The Florida Constitution and statutory Election Code¹ specify a number of requirements candidates for public office must satisfy. Those requirements include, but are not limited to, a signed oath or affirmation and certain residency requirements.

Oath or Affirmation

Each candidate for an elected office in Florida must take and subscribe to in writing an oath or affirmation.² Current law specifies oath formats for a candidate for federal office,³ a candidate

¹ Chapters 97-106, F.S.

² Sections 99.021(1)(a) and 105.031(4), F.S.

³ Section 99.021(1)(a)2., F.S.

for a non-federal office other than a judicial office,⁴ and a candidate for a state judicial office.⁵ Every oath or affirmation must be signed by the candidate in front of the filing officer and must contain his or her address.

The oath or affirmation for a non-federal office must, in substance:

- Provide the name of the office for which the candidate is running;
- Affirm that the candidate is a qualified elector of the county or court jurisdiction, as applicable;
- Affirm that the candidate is qualified under the State Constitution and laws of Florida to hold the office for which he or she is running;
- Affirm that the candidate has not qualified for any other public office in the state for which the term runs concurrently and that he or she has resigned from any office from which he or she is required to resign;⁶ and
- Affirm that the candidate will support the constitutions of the United States and the State of Florida.⁷

Residency

Many elected offices require that the public officials holding them live within a specified district or area. Unless otherwise provided for constitutionally, legislatively, or judicially, any residency requirement for an elected office must be met at the time of assuming office.⁸ Some offices with specified residency requirements are below.

Office	Point at Which Residency Requirement Must be Met
City commissioner	At time of assuming office, unless otherwise provided by city charter or ordinance ⁹
Congressional member (U.S. Senator or U.S. Representative)	At time of election ¹⁰
County commissioner	At time of election ¹¹
Constitutional county officers (clerk of court, supervisor of elections, property tax appraiser, sheriff)	At time of assuming office ¹²

⁴ Section 99.021(1)(a)1., F.S.

⁵ Section 105.031(4)(b), F.S.

⁶ Section 99.012(3)(a), F.S., states, “No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the office he or she presently holds.”

⁷ Sections 99.021(1)(a)1. and 105.031(4), F.S.

⁸ “Guidelines for Determining When Residency Qualifications for Elected Office Must be Met,” Florida Division of Elections, DE Reference Guide 0008, updated 10/2018.

⁹ See *Nichols v. State*, 177 So.2d 467 (Fla. 1965); *Marina v. Leahy*, 578 So.2d 382; and Division of Elections opinions 94-04 and 92-10.

¹⁰ Article 1, ss. 2 and 3, U.S. CONST.

¹¹ See *State v. Grassi*, 532 So.2d 1055 (Fla. 1988); Art. VII, s. 1(e), FLA. CONST.; Division of Elections opinions 92-10 and 94-04; and Attorney General Opinion 74-293.

¹² See Division of Elections opinions 90-30, 92-10, and 94-04.

Governor, Lieutenant Governor, or Cabinet member	At time of election ¹³
Judge	At time of assuming office ¹⁴
State legislators	At time of election ¹⁵
School board members	At time of qualifying ¹⁶
School superintendent	At time of assuming office ¹⁷

III. Effect of Proposed Changes:

The bill amends the oath formats for a candidate for a non-federal office other than a judicial office and for a candidate for state judicial office to specify that the included address must be the candidate's address of *legal residence*.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹³ Article IV, s. 5, FLA. CONST.

¹⁴ See Art. V, s. 8, FLA. CONST.; and Division of Elections opinions 78-31 and 94-04.

¹⁵ See *Ruiz v. Farias*, 43 So.3d 124 (Fla. 3DCA 2010).

¹⁶ See ss. 1001.34 and 1001.361, F.S.; and Division of Elections opinions 82-02 and 94-04.

¹⁷ See Division of Elections opinion 94-04.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Some candidates for office and elected officials may be entitled to protect their home addresses from disclosure under public-records laws.¹⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 99.021 and 105.031.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on March 7, 2023:

The CS makes the same change to the oath for judicial candidates – requiring that the listed address be the address of *legal residence* – that the underlying bill makes to the oath for candidates for other state offices.

B. Amendments:

None.

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

¹⁸ The State Constitution and Florida Statutes require disclosure of public records upon request unless a legislatively created exemption applies (Art. I, s. 24(a), FLA. CONST., and s. 119.07(1)(a), F.S.). Section 119.071(4)(d), F.S., exempts from public disclosure the personal identification and location information of a number of public officials and employees, their spouses, and their children. Examples of personnel whose information is protected under the exemptions include, but are not limited to, justices and judges, law enforcement officers, state attorneys, and public defenders.