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 Judiciary

BILL:	CS/SB 666
INTRODUCER:	Ethics and Elections Committee and Senator Collins
SUBJECT:	Form of Candidate Oath
DATE:	March 28, 2023 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE		ACTION
1.	Biehl	Roberts	EE		**Fav/CS**
2.	Davis	Cibula	JU		**Favorable**
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." The bill specifies that the address in the oath or affirmation for a non-federal office must be the candidate's "*address of legal residence*."

For purposes of the Florida Election Code, an "address of legal residence" means the legal residential address of the elector and includes all information necessary to differentiate one residence from another, including, but not limited to, a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier."[1]

The bill takes effect July 1, 2023.

II. Present Situation:

The Florida Constitution and the statutory Election Code[2] 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.

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[1] Section 97.021(3), F.S.
[2] Chapters 97-106, F.S.

Oath or Affirmation

Each candidate for an elected office in Florida must take and subscribe to in writing an oath or affirmation.[3] Current law specifies oath formats for a candidate for federal office,[4] a candidate for a non-federal office other than a judicial office,[5] and a candidate for a state judicial office.[6] 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;[7] and
- Affirm that the candidate will support the constitutions of the United States and the State of Florida.[8]

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.[9] 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[10]
Congressional member (U.S. Senator or U.S. Representative)	At time of election[11]

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[3] Sections 99.021(1)(a) and 105.031(4), F.S.

[4] Section 99.021(1)(a)2., F.S.

[5] Section 99.021(1)(a)1., F.S.

[6] Section 105.031(4)(b), F.S.

[7] 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."

[8] Sections 99.021(1)(a)1. and 105.031(4), F.S.

[9] Florida Division of Elections, *Guidelines for Determining When Residency Qualifications for Elected Office Must be Met*, DE Reference Guide 0008, updated 02/2020 https://soe.dos.state.fl.us/pdf/DE%20Guide%200008%20-%20Guidelines%20for%20Determining%20When%20Residency%20Qualifications%20for%20Elected%20Office%20Must%20be%20Met%20-%2020200205.pdf.

[10] *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.

[11] Article 1, ss. 2 and 3, U.S. CONST.

County commissioner	At time of election[12]
Constitutional county officers (clerk of court, supervisor of elections, property tax appraiser, sheriff)	At time of assuming office[13]
Governor, Lieutenant Governor, or Cabinet member	At time of election[14]
Judge	At time of assuming office[15]
State legislators	At time of election[16]
School board members	At time of qualifying[17]
School superintendent	At time of assuming office[18]

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 current statute requires the candidate to state, under the candidate's signature, simply his or her "address."

For purposes of the Florida Election Code, an "address of legal residence" means the legal residential address of the elector and includes all information necessary to differentiate one residence from another, including, but not limited to, a distinguishing apartment, suite, lot, room, or dormitory room number or other identifier."[19]

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.

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[12] *See State v. Grassi*, 532 So.2d 1055 (Fla. 1988); FLA CONST. art. VII, s. 1(e); Division of Elections opinions 92-10 and 94-04; and Op. Att'y Gen. Fla. 74-293 (1974).

[13] *See* Division of Elections opinions 90-30, 92-10, and 94-04.

[14] FLA. CONST. art. IV, s. 5(b).

[15] *See* FLA. CONST. art. V, s. 8; and Division of Elections opinions 78-31 and 94-04.

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

[17] *See* ss. 1001.34 and 1001.361, F.S.; and Division of Elections opinions 82-02 and 94-04.

[18] *See* Division of Elections opinion 94-04.

[19] Section 97.021(3), F.S.

D.   State Tax or Fee Increases:

None.

E.   Other Constitutional Issues:

None identified.

V.   Fiscal Impact Statement:

A.   Tax/Fee Issues:

None.

B.   Private Sector Impact:

None.

C.   Government Sector Impact:

There could be a cost for the reprinting of candidates' oath of office forms and replace the phrase "address" with "address of legal residence".

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.[20]

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:

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[20] The State Constitution and Florida Statutes require disclosure of public records upon request unless a legislatively created exemption applies (FLA. CONST. art. I, s. 24(a), 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.

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.