

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: SB 72

INTRODUCER: Senator Berman

SUBJECT: Use of Campaign Funds for Child Care Expenses

DATE: February 18, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Biehl</u>	<u>Roberts</u>	<u>EE</u>	Favorable
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 72 expands an existing exception from a general prohibition against using campaign funds to defray a candidate’s living expenses. Specifically, the bill allows a candidate’s campaign funds to be used to pay for campaign-related childcare expenses if the expense would not exist were it not for the candidate’s campaign. The bill also prescribes record retention and reporting requirements for a candidate who uses campaign funds to pay for such childcare expenses.

The bill takes effect July 1, 2025.

II. Present Situation:

Each candidate¹ for public office must appoint a campaign treasurer and designate a campaign depository before he or she may accept a contribution² or make an expenditure³ in furtherance of

¹ A candidate is a person who seeks to qualify for nomination or election by means of the petition process; seeks to qualify for election as a write-in candidate; receives contributions or makes expenditures, or consents for any other person to receive contributions or make expenditures, with a view to bring about his or her nomination or election to, or retention in, public office; appoints a treasurer and designates a primary depository; or files qualification papers and subscribes to a candidate’s oath as required by law (s. 106.011(3), F.S). The definition does not include any candidate for a political party executive committee.

² “Contribution” means (a) a gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication; (b) a transfer of funds between political committees, between electioneering communications organizations, or between any combination of these groups; (c) the payment, by a person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services; or (d) the transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes interest earned on such account or certificate (s. 106.011(5), F.S.).

³ “Expenditure” means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of

his or her candidacy.⁴ Contributions must be deposited in, and expenditures disbursed from, a designated campaign account.

State law prohibits a candidate or spouse of a candidate from using funds on deposit in a campaign account to defray normal living expenses for the candidate or the candidate's family, other than expenses actually incurred for transportation, meals, and lodging by the candidate or a family member during travel in the course of the campaign.⁵ Generally, the question asked to determine if such expense is incurred in the course of the campaign is whether the expense would exist if the campaign did not.

In 2018, the Federal Election Commission released an opinion allowing campaign funds to be used to pay for a federal candidate's childcare expenses that are incurred as a direct result of campaign activities.⁶ Since that opinion, 13 states have enacted their own laws allowing state and local candidates to use campaign funds for campaign-related childcare expenses.⁷

III. Effect of Proposed Changes:

SB 72 allows a candidate to use campaign funds to pay for campaign-related childcare expenses if:

- The expense would not exist were it not for the candidate's campaign; and
- The candidate maintains and provides to the Division of Elections clear records of all childcare expenses reimbursed by campaign funds.

In addition, the candidate must:

- Maintain receipts or invoices from the eligible childcare provider, along with proof of payment, for at least 3 years after the campaign ends; and
- Disclose the use of campaign funds for childcare in his or her regular campaign finance reports, specifying the amounts and dates of childcare expenses.

The bill specifies that campaign funds may not be used for childcare expenses unrelated to campaign activities, such as personal errands or routine childcare unrelated to campaigning.

The bill takes effect July 1, 2025.

money or anything of value made for the purpose of influencing the results of an election or making an electioneering contribution (s. 106.011(10)(a), F.S.).

⁴ Section 106.021(1)(a), F.S.

⁵ Section 106.1405, F.S.

⁶ See Federal Election Commission Administrative Order 2018-06, in which the Commission concluded that a candidate could use campaign funds to pay for certain childcare expenses because such expenses would not exist irrespective of the candidacy.

⁷ National Conference of State Legislatures, *Use of Campaign Funds for Child Care Expenses*, <https://www.ncsl.org/elections-and-campaigns/use-of-campaign-funds-for-child-care-expenses> (last visited February 14, 2025). In addition, Minnesota has a similar law that preceded the 2018 federal opinion.

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.

B. Private Sector Impact:

Candidates for state and local office will be able to use campaign funds to pay for childcare expenses directly related to the campaign instead of having to use personal funds.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 106.1405, Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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