

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: SB 72

INTRODUCER: Senator Berman

SUBJECT: Use of Campaign Funds for Child Care Expenses

DATE: March 25, 2025

REVISED: _____

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

I. Summary:

SB 72 changes the law to allow a candidate’s campaign funds to be used for campaign-related child care expenses.

Generally, campaign funds may not be used to defray a candidate’s living expenses. There is an exception to this general prohibition in state law, however, and the bill expands that exception. It allows a candidate’s campaign funds to be used to pay for campaign-related child care expenses if the expense would not exist were it not for the candidate’s campaign.

The bill also prescribes certain record retention and reporting requirements for a candidate who uses campaign funds to pay for child care expenses.

The bill takes effect July 1, 2025.

II. Present Situation:

Each candidate for public office must appoint a campaign treasurer and designate a campaign depository before he or she may accept a contribution or make an expenditure in furtherance of his or her candidacy.¹ Contributions must be deposited in, and expenditures disbursed from, a designated campaign account.

For purposes of this requirement, a “candidate” means 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.

¹ Section 106.021(1)(a), F.S.

- 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.
- Files qualification papers and subscribes to a candidate's oath as required by law.²

Additionally, for purposes of the requirement, a “contribution” means any of the following:

- 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.
- A transfer of funds between political committees, between electioneering communications organizations, or between any combination of these groups.
- 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.
- 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.³

An “expenditure” for purposes of the requirement 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 money or anything of value made for the purpose of influencing the results of an election or making an electioneering contribution.⁴

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 advisory opinion allowing campaign funds to be used to pay for a federal candidate's child care 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

² Section 106.011(3), F.S. The definition does not include any candidate for a political party executive committee. *Id.*

³ Section 106.011(5), F.S.

⁴ Section 106.011(10)(a), F.S.

⁵ Section 106.1405, F.S.

⁶ See Federal Election Commission, *Advisory Opinion 2018-06* (May 10, 2018), available at <https://www.fec.gov/files/legal/aos/2018-06/2018-06.pdf> (concluding 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 Feb. 14, 2025). In addition, Minnesota has a similar law that preceded the 2018 federal opinion. *Id.*

III. Effect of Proposed Changes:

SB 72 provides the two following definitions:

- “Campaign-related child care expenses” means the costs associated with the care of a candidate’s dependent child due to campaign activities, such as participating in campaign events, canvassing, participating in debates, and meeting with constituents or donors.
- “Eligible child care provider” means any individual or licensed organization.

Based upon these definitions, the bill allows a candidate to use campaign funds to pay for campaign-related child care expenses if the expense would not exist were it not for the candidate’s campaign and the following conditions are met:

- The campaign funds are not used for child care expenses unrelated to campaign activities, such as personal errands or routine child care unrelated to campaigning.
- The candidate maintains and provides to the Division of Elections clear records of all child care expenses reimbursed by campaign funds, including dates, times, and descriptions of campaign events engaged in.

In addition, the candidate must:

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

The bill takes effect July 1, 2025.

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 of the 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.