

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 83 Public Campaign Financing
SPONSOR(S): Hays and others
TIED BILLS: HJR 81 IDEN./SIM. BILLS: SB 564

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Rows include Governmental Affairs Policy Committee, Economic Development & Community Affairs Policy Council, Transportation & Economic Development Appropriations Committee, Full Appropriations Council on Education & Economic Development, and an empty row.

SUMMARY ANALYSIS

HB 83 makes the necessary statutory deletions to complete a repeal of the Florida Election Campaign Financing Act, as provided in ss. 106.30-106.36, F.S. The bill is tied to HJR 81, which proposes a repeal of the public campaign financing program found in Article VI, s. 7, Fla. Const. That section provides:

It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

HB 83 deletes references to the Election Campaign Financing Trust Fund, which expired November 4, 1996. It also corrects cross-references and makes conforming changes.

This bill would potentially avoid future state expenditures from the General Revenue Fund by an indeterminate amount. State expenditures for the past four statewide election cycles have been: in excess of \$11 million for 2006; \$5.2 million for 2002; \$915,000 for 2000; and \$4.6 million for 1998.

HB 83 is effective upon approval by the electors of HJR 81 at the November 2010 general election.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, the Florida Constitution requires public campaign financing for statewide candidates (Governor and cabinet officers), with implementation by general law. Article VI, s. 7, Fla. Const., provides:

It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

The above provision has been in place since 1998 after being proposed by the Constitution Revision Commission and approved by the voters in the 1998 general election. The statutory component, however, has been in place since 1986.¹

Public campaign financing or matching funds program is provided by general law in ss. 106.30-106.355, F.S., and administered by the Department of State's Division of Elections (Division). The program can be summarized as follows:

- Participating statewide candidates must have opposition;
- Only personal contributions from state residents are eligible for matching;² corporate and political committee contributions are not eligible for matching;
- Contributions received after September 1 of the calendar year preceding the election are eligible for matching;
- Participating candidates must raise an initial amount of \$150,000 (for gubernatorial candidates) or \$100,000 (for candidates for Cabinet offices); and

¹ Chapter 86-276, Laws of Fla.

² In 2001, the Legislature enacted a law that excluded out-of-state contributions from eligibility for matching. (s. 69, ch. 2001-40, Laws of Fla.)

- The threshold amounts above are matched on a two-to-one basis, and after that, a contribution is eligible to be matched on a one-to-one basis, up to \$250. Thus, if a person makes a \$250 contribution, it is matched with \$250 from the state. But, if for example, a person makes a \$500 contribution, only \$250 of that contribution will be matched.

Candidates for statewide office must complete a form declaring their intention to apply for public campaign financing at the time of qualifying and after this declaration, submit their contributions for audit by the Division to determine eligibility for the match. The Division then audits the submissions and makes payment to the candidate, beginning immediately after the qualifying period ends and every seven days thereafter.

Participating candidates must abide by certain expenditure limits, pursuant to s. 106.34, F.S. In 2005, the Legislature increased those expenditure limits³ as follows:

Gov./Lt. Gov. – Increased from \$5 million to \$2.00 per each Florida-registered voter, or roughly \$20.5 million.⁴

Cabinet Offices – Increased from \$2 million to \$1.00 per each Florida-registered voter, or roughly \$10.2 million.

Proposed Changes

HB 83 makes the necessary statutory deletions to complete a repeal of the Florida Election Campaign Financing Act, as provided in ss. 106.30-106.36, F.S. The bill is effective upon approval of a constitutional amendment contained in HJR 81 which repeals the public campaign financing program found in Article VI, s. 7, Fla. Const. HJR 81, if enacted by the Legislature, will appear on the ballot at the November 2010 general election. Proposed constitutional amendments require approval by 60 percent of the electors voting on the measure.

HB 83 also deletes references to the Election Campaign Financing Trust Fund, which expired effective November 4, 1996, by operation of s. 19(f), Art. III, Fla. Const. In addition, it corrects cross-references and conforms other provisions of law throughout the Florida Election Code (chs. 97-106, F.S.).

B. SECTION DIRECTORY:

Section 1. Repeals ss. 106.30 – 106.36, F.S., the “Florida Election Campaign Financing Act.”

Sections 2-7. Amends ss. 106.07, 106.141, 106.22, 106.265, 328.72, and 607.1622, F.S., to delete references to the Election Campaign Financing Trust Fund and to correct cross-references.

Section 8. Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

In excess of \$11 million from the General Revenue Fund was disbursed in 2006 to participating candidates. In the prior three election cycles (normally every 4 years), the following aggregate amounts were distributed to statewide candidates from the General Revenue Fund:

³ Section 48, ch. 2005-278, Laws of Fla.

⁴ As of May 2007, there were 10,251,312 registered voters in the State of Florida.

- 1998 - \$4.6 million
- 2000 - \$914,885⁵
- 2002 - \$5.2 million

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the program is repealed, statewide candidates would no longer be able to depend on matching funds from the program to help fund their campaigns.

D. FISCAL COMMENTS:

If the program is repealed, statewide candidates would no longer be able to depend on matching funds from the program to help fund their campaigns.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None

⁵ In 2000, a non-gubernatorial election year, the two cabinet offices of State Treasurer and Commissioner of Education were up for election. At the time, Bill Nelson, as the State Treasurer, resigned from that office to run for U.S. Senate. Tom Gallagher, as the Commissioner of Education, ran for the State Treasurer post vacated by Nelson. Charlie Crist then ran for the Commissioner of Education post vacated by Mr. Gallagher. Crist, Gallagher and John Cosgrove received matching funds from the program in the 2000 election in the total amount listed above.