

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 Governmental Oversight and Accountability

BILL: CS/SB 814

INTRODUCER: Ethics and Elections Committee and Senator Perry

SUBJECT: Disposition of Surplus Funds by Candidates

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	Fav/CS
2.	Hackett	McVane	GO	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 814 prohibits a candidate from being employed by the charitable organization to which he or she donates surplus funds following an election. Current law provides that a candidate failing to dispose of campaign funds to a charity in the manner prescribed by statute commits a first-degree misdemeanor.

The bill also allows any candidate to remit surplus campaign funds either to the state General Revenue Fund or to any local political subdivision's general revenue fund of the candidate's choice; currently, state candidates only have the option to give to the *State* general revenue fund, and local candidates to their local political subdivision's general revenue fund.

The bill takes effect July 1, 2020.

II. Present Situation:

A candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated or elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds.¹ Florida law provides former candidates with seven non-exclusive options for disposing of surplus funds:²

¹ Section 106.141, F.S.

² Sections 106.11(5) and 106.141(4)(a), F.S. Successful candidates have the additional option to transfer a certain amount of the surplus funds to an "office account," to be used for "legitimate expenses in connection with the candidate's public office."

- Return funds *pro rata* to contributors;
- Give the funds as a charitable donation;
- Rebate up to \$25,000 to the candidate's political party;
- Deposit funds to the General Revenue Fund of State (*state candidates*) or to the local political subdivision for the office the candidate is seeking to represent (*local candidates*);
- Purchase "thank you" advertising for up to 75 days;
- Pay for items obligated before the candidate withdrew, became unopposed, or was eliminated or elected; and,
- Pay for necessary expenses to close down the campaign office and prepare final reports.

The statutory language for the charitable donation option authorizes candidates to:

Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code.³

Thus, the only limitation is that funds must be given to a 501(c)(3) organization(s).

Any candidate who fails to dispose of campaign funds to a charity in the manner provided by statute commits a first-degree misdemeanor.⁴

III. Effect of Proposed Changes:

Section 1 amends s. 106.141, F.S; provides that, for charitable donations involving surplus campaign funds, the candidate may not be employed by the charitable organization to which he or she donates the funds; candidates who violate this new restriction commit a first-degree misdemeanor.

The bill also allows *any* candidate to remit surplus funds *either* to the State general revenue fund or to *any* local political subdivision's general revenue fund; currently, state candidates only have the option to give to the *State* general revenue fund, and local candidates to the political subdivision's general revenue fund for which they are seeking office.

Section 2 provides that the bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

Section 106.141(5), F.S. Candidates receiving public campaign financing must return *all* excess funds to the State General Revenue Fund after paying for any items for which the campaign was liable before withdrawing, becoming unopposed, or being eliminated or elected. Section 106.141(4)(b), F.S.

³ Section 106.141(4)(a)2., F.S.

⁴ Section 106.141(11), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

The bill could result in additions to state and/or local political subdivision general revenue funds that can now receive surplus campaign funds from *any* state or local candidate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 106.141, Florida Statutes.

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 February 3, 2020:

The CS expands the options for disposing of surplus campaign funds by allowing any candidate to remit funds either to the State general revenue fund or to any local political subdivision's general revenue fund.

- B. **Amendments:**

None.