

STORAGE NAME: h1709.ca

DATE: April 7, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

BILL #: HB 1709

RELATING TO: Alachua County School Board

SPONSOR(S): Representative Casey & others

COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS
- (2) ELECTION REFORM
- (3)
- (4)
- (5)

I. SUMMARY:

This bill will permit candidates for the Alachua County School Board to qualify for election by a petition process. In order to be placed on the ballot, the candidate must receive the signatures of 3% of the total number of registered electors of Florida who are registered in the party by which the candidate seeks nomination.

According to the attached Economic Impact Statement, this bill will have no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

CONSTITUTIONAL PROVISION/SCHOOL DISTRICTS

Article IX, Section 4 subsection (a), State Constitution, provides that:

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

STATUTORY PROVISIONS/SCHOOL DISTRICTS

Several statutory provisions govern the qualification of candidates for election to district school board membership. These provisions are summarized below.

Section 99.061(2), Florida Statutes, provides:

The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district or special district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the alternative method with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 50th day prior to the first primary or special district election, but not later than noon of the 46th day prior to the date of the first primary or special district election.

Section 99.095, Florida Statutes, provides for an alternative method for qualifying for election. This section does not require the payment of a qualifying fee or party assessment. In order to get their name on the ballot, a candidate must:

...seek signatures on petitions supporting his or her candidacy. Only signatures of electors who are registered in the political party by which the candidate seeks to be nominated and who are registered to vote in the county, district, or other geographical entity represented by the office sought shall be counted toward obtaining the minimum numbers of signatures prescribed in this subsection. A candidate for an office elected on a statewide basis shall obtain the signatures of a number of qualified electors equal to at least 3 percent of the total number of registered electors of Florida who are registered in the party by which the candidate seeks nomination, as shown by the compilation by the Department of State for the last preceding general election.

Section 99.0955, Florida Statutes provides:

(1) Any registered elector seeking to have his or her name placed on the ballot at the general election as an independent candidate for an office may have his or her name printed on the general election ballot in which election such office is to be

filled, provided the registered elector is otherwise qualified to hold the office that he or she seeks and provided a petition requesting that he or she be assigned a position on the general election ballot is signed by the required number of registered electors.

CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11 of Article III of the Florida Constitution lists a number of subjects which may not be addressed in any special act or general bill of local application. This list includes prohibitions on local bills pertaining to 20 wide-ranging topics, including the:

election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies.

In Kane v. Robbins 556 So.2d 1381 (Fla. 1989), the Florida Supreme Court ruled that this prohibition included local bills or general bills of local application pertaining to the election of school board members, and held invalid a special act providing for school board members in Martin County to be elected on a nonpartisan basis.

However, in School Board of Palm Beach County v. Winchester 565 So.2d 1350 (Fla. 1990), the Court ruled that Article III, section 11(a)1, Florida Constitution, did not apply to charter counties. The Court upheld a special act providing for the nonpartisan election of Palm Beach County School Board members, even though the act was passed several years before Palm Beach County became a charter county.

CURRENT STATUS OF ELECTION OF ALACHUA COUNTY SCHOOL MEMBERS

Chapter 95-466, Laws of Florida governs the election of school board members in Alachua County. Currently, candidates qualify for election to the Alachua County School Board by paying a fee and filing qualification papers.

B. EFFECT OF PROPOSED CHANGES:

This bill will provide for an alternative method of qualification for candidates for election to the Alachua County School Board. Candidates will be able to qualify in two ways:

1. By filing papers and paying a fee; or
2. By obtaining the signatures of 3% of the total number of registered electors of Florida who are registered in the party by which the candidate seeks nomination. Candidates will not be required to pay a fee under this method of qualification.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

Chapter 95-466, Laws of Florida.

D. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Not applicable.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Not applicable.

(3) any entitlement to a government service or benefit?

Not applicable.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

Not applicable.

b. Does the bill require or authorize an increase in any fees?

Not applicable.

- c. Does the bill reduce total taxes, both rates and revenues?

Not applicable.

- d. Does the bill reduce total fees, both rates and revenues?

Not applicable.

- e. Does the bill authorize any fee or tax increase by any local government?

Not applicable.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Not applicable.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Not applicable.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

Not applicable.

(2) Who makes the decisions?

Not applicable.

(3) Are private alternatives permitted?

Not applicable.

(4) Are families required to participate in a program?

Not applicable.

(5) Are families penalized for not participating in a program?

Not applicable.

b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

E. SECTION-BY-SECTION RESEARCH:

Section 1 provides for the qualification of candidates for the Alachua County School Board by a petition procedure. In order to be placed on the ballot, the candidate must receive the signatures of 3% of the total number of registered electors of Florida who are registered in the party by which the candidate seeks nomination.

Section 2 provides that this act will take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? February 21, 1997

WHERE? The Gainesville Sun, Alachua County, Florida

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

IV. COMMENTS:

The attorney for the Alachua County School Board comments that this bill is desired because the current special act makes no provision for alternative methods for qualification of candidates.

The Supervisor of Elections of Alachua County supports the bill.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment 1 deletes the statutory reference to section 99.095, F.S., from the bill. This amendment is needed because section 99.095, F.S., deals with partisan elections, while the Alachua County School Board is elected on a non-partisan basis.

Amendment 2 inserts language which will allow a non-partisan school board candidate to qualify for election using a petition process. A candidate will be required to file an oath with the supervisor of elections that he or she intends to qualify by this alternative method. A candidate must then obtain the signatures of qualified electors equal to 3% of the total number of registered electors of Alachua County to qualify for election. A candidate using this alternative method for qualification will not be required to pay a qualifying fee.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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