

**STORAGE NAME:** h0267b.er

**DATE:** February 25, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
ELECTION REFORM  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** HB 267(1st Engrossed)(as passed by the 1997 House of Representatives)

**RELATING TO:** Campaign financing (revising reporting requirements)

**SPONSOR(S):** Representatives Carlton, Fasano and others

**STATUTE(S) AFFECTED:** amending s. 106.07, F.S.

**COMPANION BILL(S):** SB 204(s)

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

- (1) ELECTION REFORM (GRC) YEAS 8 NAYS 0
- (2) GOVERNMENTAL OPERATIONS (GRC)
- (3)
- (4)
- (5)

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**I. SUMMARY:**

HB 267, as amended, revises reporting requirements applicable to candidates for other than statewide office who qualify with the Department of State. Specifically, this bill would require these candidates to furnish copies of their campaign finance reports to the supervisor of elections of each county within the jurisdiction of the office sought.

This bill does not appear to have a significant fiscal impact on state or local governments.

Provides an effective date.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently under Florida law, each campaign treasurer designated by a candidate must file regular reports of all contributions received and expenditures made by or on the candidate's behalf. [s. 106.07(1), F.S. (1997)]. Reports are filed with the officer before whom the candidate is required to qualify. [s. 106.07(2)(a), F.S. (1997)]. All candidates required to qualify with the Department of State must file the original and one copy of their reports. For those candidates who qualify with the Department of State but are not running for a statewide office, a copy of the report must also be filed with the supervisor of elections in the county where the candidate resides. Reports must be filed no later than 5 p.m. of the day designated. [s. 106.07(2)(a), F.S. (1997)].

Any candidate who fails to file a report on the designated due date is subject to a fine as provided by law. The fine is \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the applicable filing period. However, for reports immediately preceding each primary and general election, the fine is \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the filing period. [s. 106.07(8)(b), F.S. (1997)]. A candidate may appeal or dispute a fine, based upon unusual circumstances, and may request a hearing before the Florida Elections Commission. [s. 106.07(8)(c), F.S. (1997)]. No separate fine is assessed for failure to file a copy of any report required under section 106.07, F.S. [s. 106.07(8)(a), F.S. (1997)].

Currently, candidates are only required to file a copy of their contribution and expenditure reports in their county of residence, regardless of whether or not a candidate is running for an office with a jurisdiction covering portions of other counties.

Supervisors of elections are required to preserve reports filed for ten (10) years from date of receipt. [s. 98.015(5), F.S. (1997)].

B. EFFECT OF PROPOSED CHANGES:

This bill amends section 106.07(2)(a), F. S., to require candidates, other than candidates for statewide office, who run for offices which encompass portions of multiple counties, to furnish copies of campaign expenditure and contribution reports with the supervisor of elections in each county within the jurisdiction of the office sought. These candidates must still file the original and one copy with the Department of State. Under this bill, reports to the Department of State must be filed no later than 5 p.m. of the day designated. No time frame is specified for furnishing copies to the supervisors of elections.

It should be noted that under section 104.41, F.S., any violation of the election code that is not otherwise provided for is deemed a misdemeanor of the first degree, which is punishable by a term of imprisonment not to exceed 1 year and/or a fine not to exceed \$1,000. Because HB 267, as amended, does not require any time certain for reports to be furnished to the appropriate supervisors of elections, nor does it address what, if

anything, would happen if a candidate fails to furnish copies of these reports, failure to provide copies of these reports could be construed as falling under the "catch-all" penalty provision in Chapter 104. As a practical matter though, the deficiency could be cured at any time by the candidate and the violation would have to actually be reported to the appropriate prosecuting attorney for subsequent investigation and action.

**C. 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?

No.

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

This bill will require candidates to furnish copies of campaign finance reports with the supervisor of elections in each county within the jurisdiction of the office sought. It will impose an additional burden on those supervisors to keep the reports.

If the failure to furnish copies of campaign finance reports with the appropriate supervisors of elections is a violation covered by section 104.41, F.S., the appropriate prosecuting attorneys of the several counties would have the responsibility of investigating any alleged violations that are reported.

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

No.

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?

No.

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

No.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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?

No.

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

No.

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?

No.

- 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.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Local supervisors will have to bear the cost of maintaining the copies of campaign finance reports as required by this bill.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Candidates qualifying for offices the jurisdiction of which covers more than one county will be required to incur additional expense for copying and postage for furnishing the copies required by this bill. The number of additional copies required to be furnished by this bill will depend on the office sought.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

Elections laws are exempt from the requirements of Article VII, s. 18, Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 267 was amended to provide that the campaign reports be furnished to, instead of filed with, the supervisor of elections in each county within the jurisdiction of the office sought; removing the requirement that they be filed by a certain time with the supervisors of elections.

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VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

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