

STORAGE NAME: h3001s1.er

DATE: February 10, 1998

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

BILL #: CS/HB 3001

RELATING TO: Restriction on Individuals Qualifying for Public Office

SPONSOR(S): Committee on Election Reform and Representative(s) Carlton and Fasano

COMPANION BILL(S):

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

- (1) ELECTION REFORM (GRC) YEAS 8 NAYS 0
 - (2) LAW ENFORCEMENT AND PUBLIC SAFETY(JC)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides that a subordinate officer, deputy sheriff, or police officer must take an unpaid leave of absence when seeking political office whether or not the officer or deputy is required to resign-to-run as provided by section 99.012, Florida Statutes.

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

CS/HB 3001 has an effective date of July 1, 1998.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 99.012, Florida Statutes, is commonly referred to as the resign-to-run law. This law prohibits any individual from qualifying as a candidate for more than one office if the terms of the offices, or any part thereof, run concurrently. In addition, this section requires an elective or appointive officer to irrevocably resign when seeking an elective office which runs concurrently with the term of office which he or she currently holds. An "officer" is defined as a "person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office under the State Constitution or laws of the state." §99.012(1)(a), F.S.

An exemption is provided in subsection (5) of section 99.012, Florida Statutes, for a deputy sheriff, police officer, or subordinate officer. These officers need not resign unless they are seeking to qualify for a public office which is currently held by an individual who has the authority to appoint, employ, promote, or otherwise supervise that person and such individual has qualified for reelection to that office.

Nonetheless, such an officer is required to take a leave of absence without pay during the period in which he or she is seeking election. Florida's First District Court of Appeal has held that the leave of absence provision is triggered when a person is "seeking election", which is evidenced by such activities as hiring a campaign manager and preparing and distributing leaflets, cards and other election paraphernalia. Humphries v. Department of Highway Safety and Motor Vehicles, 400 So. 2d 1311 (Fla. 1st DCA 1981).

Subsection (5) of section 99.012, Florida Statutes, contains a provision that requires a deputy sheriff, police officer, or subordinate officer to take an unpaid leave of absence upon qualifying for public office. The Division of Elections has interpreted this leave of absence provision as not applying if a deputy sheriff, police officer or subordinate officer resigns under this section. Division of Elections Opinion, 90-12. This interpretation has been subsequently adopted by the Second District Court of Appeal. Gonzalez v. Vogel, 616 So. 2d 473 (2d DCA 1993).

B. EFFECT OF PROPOSED CHANGES:

This bill provides that a subordinate officer, deputy sheriff, or police officer must take a leave of absence when seeking political office whether or not the officer or deputy is required to resign-to-run as provided by section 99.012, Florida Statutes.

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?

No.

(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?

Yes. Currently an officer covered under this section who submits a letter of resignation does not have to take a leave of absence while seeking another office. This bill would require all officers seeking public office to take a leave of absence, without pay.

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. STATUTE(S) AFFECTED:

Section 99.012(5), Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

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

III. FISCAL RESEARCH & 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:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None

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

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the mandates provision of the Florida Constitution because it is an elections law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

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

None.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 3001 would have required a person who is a subordinate officer, deputy sheriff, or police officer to resign upon qualifying for public office. If the public office in question is currently held by an officer who has the authority to appoint, employ, promote, or otherwise supervise the subordinate officer, deputy sheriff, or police officer, the resignation would have been required to be effective no later than the date the candidate qualifies. Otherwise, the resignation would have been required to be effective no later than the date the officer would take office, if elected. Additionally, subordinate officers, deputy sheriffs and police officers would have no longer been required to take a leave of absence without pay while campaigning for public office.

CS/HB 3001 would require a deputy sheriff, police officer, or subordinate officer to take an unpaid leave of absence upon qualifying for office whether or not the officer is required to resign under this section.

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VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

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