

STORAGE NAME: h1965a.er

DATE: April 8, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ELECTION REFORM
ANALYSIS**

BILL #: HB 1965

RELATING TO: Election Contributions

SPONSOR(S): Representative Henriquez

COMPANION BILL(S): CS/SB 1412(c)

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

- (1) ELECTION REFORM (PRC) YEAS 8 NAYS 0
 - (2) CRIME & PUNISHMENT (CRC)
 - (3) CORRECTIONS (CRC)
 - (4) CRIMINAL JUSTICE APPROPRIATIONS (FRC)
 - (5)
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I. SUMMARY:

HB 1965 provides expanded penalties associated with political contributions made or accepted in cash or by cashier's check. Current law provides a first degree misdemeanor penalty for anyone who makes or accepts a contribution by cash or cashier's check over \$100. This bill seeks to provide more stringent penalties associated with graduated illegal contributions in contravention of the Election Code.

This bill has an indeterminate fiscal impact.

This bill has an effective date of July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Current law prohibits a person from making or accepting campaign contributions in cash or by cashier's check in excess of \$100. [s. 106.09, F.S. (1997)]. The law as currently written provides the same penalty for violating this section irrespective of the amount of the illegal contribution.

A violation of this section constitutes a first degree misdemeanor punishable by a prison term not to exceed one year and a \$1000 fine. [s. 775.082, F.S., (1998 Supplement) and 775.083, F.S. (1997)].

B. EFFECT OF PROPOSED CHANGES:

This bill provides penalties associated with a graduated progression of contributions made in violation of s. 106.09, F.S., as follows:

- ▶ Contributions between \$100 and \$300 remain a first degree misdemeanor.
- ▶ Contributions between \$300 and \$20,000 constitute a third degree felony.
- ▶ Contributions between \$20,000 and \$100,000 constitute a second degree felony.
- ▶ Contributions over \$100,000 constitute a first degree felony.

Corresponding penalties for the above violations are as follows:

- ▶ First degree misdemeanor: Up to one year in prison and a \$1,000 fine.
- ▶ Third degree felony: Up to five years in prison and a \$5,000 fine.
- ▶ Second degree felony: Up to 15 years in prison and a \$10,000 fine.
- ▶ First degree felony: Up to 30 years in prison and a \$10,000 fine.

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?

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.

D. STATUTE(S) AFFECTED:

HB 1965 amends s. 106.09, F.S.

E. 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:

Not yet determined.

2. Recurring Effects:

Not yet determined.

3. Long Run Effects Other Than Normal Growth:

Not applicable.

4. Total Revenues and Expenditures:

Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Not yet determined.

2. Recurring Effects:

Not yet determined.

3. Long Run Effects Other Than Normal Growth:

Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Not applicable.

2. Direct Private Sector Benefits:

Not applicable.

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

Not applicable.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

Election laws are exempt from the mandates of Art. VII, s. 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

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

Not applicable.

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V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

A strike everything amendment was offered by Representative Henriquez and adopted. The amendment provides a first degree misdemeanor to contributions made or accepted in excess of \$100 but less than \$25,000. Contributions of \$25,000 and over constitute a third degree felony.

VII. SIGNATURES:

COMMITTEE ON ELECTION REFORM:

Prepared by:

Staff Director:

R. Michael Paredes

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