

STORAGE NAME: h0275s1.ree.doc
DATE: February 6, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
RULES, ETHICS, AND ELECTIONS
ANALYSIS**

BILL #: CS/HB 275
RELATING TO: Public Records
SPONSOR(S): Committee on Rules, Ethics, and Elections and Representatives Ross and Goodlette
TIED BILL(S): CS/HB 273

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

- (1) RULES, ETHICS, AND ELECTIONS YEAS 13 NAYS 0 (PRC)
 - (2) STATE ADMINISTRATION (SGC)
 - (3) PROCEDURAL & REDISTRICTING COUNCIL
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 275 provides an exemption to the requirements of public records inspection provided by s. 24(a), Art. I of the State Constitution and s. 119.07(1), Florida Statutes. The bill provides for the confidentiality of personal identification numbers and algorithms necessary to maintain the security of information submitted or received through the Division of Elections' Internet web site by campaign treasurers as required by CS/HB 273.

The bill also provides a public necessity statement explaining the necessity for the exemption, as is required by s. 24, Art. I of the State Constitution.

The bill does not have a significant fiscal impact on state or local governments.

The bill shall be effective upon the effective date of CS/HB 273, or similar legislation.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Public Records Law

Article I, section 24(a), Florida Constitution, expresses Florida's public policy regarding access to government records. This section provides that:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, section 24, Florida Constitution, also provides that the Legislature may, by general law, exempt public records from the requirements of section 24(a). Such a general law exempting records from public disclosure must state with specificity the public necessity justifying the exemption and can be no broader than necessary to accomplish the stated purpose of the law.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07, F.S., provides:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, states that an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than necessary to meet that public purpose. An identifiable public purpose is served if the exemption meets one of the following purposes, and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and that such purpose cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

C. EFFECT OF PROPOSED CHANGES:

Filing Campaign Treasurers' Reports under linked bill CS/HB 273

A component of linked bill, CS/HB 273, enhances both disclosure and tracking of contributions and expenditures required to be reported on campaign treasurer's reports. Candidates, committees, and political parties who receive contributions or make expenditures in an aggregate amount over \$10,000 in a calendar year will be required to file campaign treasurer's reports by electronic means via the Division of Elections' Internet web site. Reports can be filed either by way of direct data entry or through data electronic transfer through the Division of Elections' Internet web site. CS/HB 273 provides rulemaking authority to the Division of Elections in order to carry out the requirements of this section to include:

1. Development of an Internet electronic filing system;
2. Accessibility to such system by anyone using a standard Internet web-browser (e.g., Microsoft Explorer or Netscape Navigator);
3. Allowing users to access the filing system for data entry and downloading campaign finance information;
4. Security verification of the person accessing the data entry portion of the campaign report;
5. An alternative method for filing should the Division's Internet web server fail.

Public Records Exemption under CS/HB 275

This bill provides for the confidentiality and exemption from public disclosure of personal identification numbers, and algorithms necessary to maintain the security of information submitted or received, through the Division of Elections' Internet web site by campaign treasurers as required by the linked bill, CS/HB 273.

The bill provides a public necessity statement as required by s. 24, Art. I of the State Constitution.

The bill is contingent upon passage of the CS/HB 273, or similar legislation.

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 GOVERNMENT:

1. Revenues:

NONE.

2. Expenditures:

NONE.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

NONE.

2. Expenditures:

NONE.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

NONE.

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 form the mandates provision of Art. VII, s. 18, of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

See response above.

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

See response above.

V. COMMENTS:

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A. CONSTITUTIONAL ISSUES:

NONE.

B. RULE-MAKING AUTHORITY:

NONE.

C. OTHER COMMENTS:

NONE.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Representative Ross offered a technical amendment to correct minor deficiencies with respect to the public records necessity statement and the effective date.

VII. SIGNATURES:

COMMITTEE ON RULES, ETHICS, AND ELECTIONS:

Prepared by:

Staff Director:

R. Michael Paredes

Philip Twogood