

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1350

SPONSOR: Committee on Ethics and Elections and Senator Sanderson

SUBJECT: Elections; Political Contributions

DATE: March 11, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Favorable/CS
2.			GO	
3.			AGG	
4.			AP	
5.			RC	
6.				

## I. Summary:

Committee Substitute for Senate Bill 1350 (“Committee Substitute”) re-enacts the prohibition against making indirect contributions. It also limits the prohibition against candidates, political committees, and political parties making contributions to charitable organizations to only those contributions made in a *quid pro quo* exchange for political support.

The Committee Substitute is a direct response to the U.S. 11<sup>th</sup> Circuit Court of Appeals decision in *Florida Right to Life v. Lamar*, 273 F.3d 1318 (11<sup>th</sup> Cir. 2001). That case invalidated both the indirect contribution prohibition and the blanket prohibition against candidate contributions to charities.

The Committee Substitute is effective upon becoming law.

The Committee Substitute substantially amends section 106.08 of the Florida Statutes.

## II. Present Situation:

Subsection (5) of section 106.08, Florida Statutes, as currently drafted, embodies two separate and unrelated campaign finance prohibitions:

- *Indirect Contributions*: prohibits a person from making any contribution in the name of another, directly or indirectly.

- *Charitable Contributions*: prohibits candidates, political committees, and political parties from soliciting or *making* contributions to religious, charitable, or civic groups, with limited exceptions.<sup>1</sup>

In *Florida Right to Life v. Lamar*,<sup>2</sup> the United States 11<sup>th</sup> Circuit Court of Appeals held that the portion of section 106.08(5) prohibiting candidates from contributing to philanthropic organizations (except in the limited circumstances delineated in statute) violated the First and Fourteenth Amendment guarantees of free speech and association. The Court held the entire subsection unconstitutional, effectively striking the prohibition against indirect contributions and the prohibition against candidate contributions to charities.

### III. Effect of Proposed Changes:

The Committee Substitute re-enacts the current prohibition against indirect contributions.

The Committee Substitute also narrowly codifies the *Florida Right to Life* decision by prohibiting only those contributions to philanthropic organizations from candidates, political committees, and political parties that are given *in exchange for* the organizations political support (*quid pro quo*). It also maintains the specific exceptions in current law.

The Committee Substitute is effective upon becoming law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

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<sup>1</sup> The statute specifically authorizes: gifts of money in lieu of flowers in memory of a deceased person; the payment of regular dues or donations to organizations of which the candidate is a member or regular donor; and, the purchase of tickets and admissions to charitable events from campaign funds.

<sup>2</sup> 273 F.3d 1318 (11<sup>th</sup> Cir. 2001).

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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