

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 277 Public Campaign Financing

**SPONSOR(S):** Hays

**TIED BILLS:** HJR 281 **IDEN./SIM. BILLS:** SB 958

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Ethics &amp; Elections</u>	<u>4 Y, 3 N</u>	<u>Mitchell</u>	<u>Mitchell</u>
2) <u>Economic Expansion &amp; Infrastructure Council</u>	<u>9 Y, 4 N</u>	<u>Mitchell</u>	<u>Tinker</u>
3) <u>Policy &amp; Budget Council</u>	<u>19 Y, 10 N</u>	<u>Martin</u>	<u>Hansen</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

HB 277 makes the necessary statutory deletions to complete a repeal of the Florida Election Campaign Financing Act, as provided in ss. 106.30-106.36, F.S. The bill is tied to HJR 281, which proposes a repeal of the public campaign financing program found in Article VI, s. 7, Fla. Const. That section provides:

*It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.*

This bill would potentially reduce/avoid future state expenditures from General Revenue Fund by an indeterminate amount. State expenditures for the past four statewide election cycles have been: \$11 million for 2006; \$5.2 million for 2002; \$915,000 for 2000; and \$4.6 million for 1998.

HB 277 is effective upon approval by the electors of HJR 281 at the November 2008 general election.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

The bill appears to implicate one of the House principles, "Provide limited government." A repeal of the public matching funds program would reduce the role of state government in the campaign process and eliminate the expenditure of public money to help fund statewide campaigns.

#### B. EFFECT OF PROPOSED CHANGES:

Currently, the Florida Constitution requires public campaign financing for statewide candidates (Governor and cabinet officers), with implementation by general law. Article VI, s. 7, Fla. Const., provides:

*It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.*

The above provision has been in place since 1998 after being proposed by the Constitution Revision Commission and approved by the voters in the 1998 general election. The statutory component, however, has been in place since 1986.<sup>1</sup>

Public campaign financing or matching funds program is provided by general law in ss. 106.30-106.355, F.S., and administered by the Department of State's Division of Elections (Division). The program can be summarized as follows:

- Participating statewide candidates must have opposition;
- Only personal contributions from state residents are eligible for matching;<sup>2</sup> corporate and political committee contributions are not eligible for matching;
- Contributions received after September 1 of the calendar year preceding the election (Sept, 1 2007, for the 2008 election cycle) are eligible for matching;
- Participating candidates must raise an initial amount of \$150,000 (for gubernatorial candidates) or \$100,000 (for candidates for Cabinet offices);
- The threshold amounts above are matched on a two-to-one basis, and after that, a contribution is eligible to be matched on a one-to-one basis, up to \$250. Thus, if a person makes a \$250 contribution, it is matched with \$250

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<sup>1</sup> Chapter 86-276, Laws of Fla.

<sup>2</sup> In 2001, the Legislature enacted a law that excluded out-of-state contributions from eligibility for matching. (s. 69, ch. 2001-40, Laws of Fla.)

from the state. But, if for example, a person makes a \$500 contribution, only \$250 of that contribution will be matched.

Candidates for statewide office must complete a form declaring their intention to apply for public campaign financing at the time of qualifying and after this declaration, submit their contributions for audit by the Division to determine eligibility for the match. The Division then audits the submissions and makes payment to the candidate, beginning immediately after the qualifying period ends and every seven days thereafter.

Participating candidates must abide by certain expenditure limits, pursuant to s. 106.34, F.S. In 2005, the Legislature increased those expenditure limits<sup>3</sup> as follows:

Gov./Lt. Gov. – Increased from \$5 million to \$2.00 per each Florida-registered voter, or roughly **\$20.5 million**.<sup>4</sup>

Cabinet Offices – Increased from \$2 million to \$1.00 per each Florida-registered voter, or roughly **\$10.2 million**.

HB 277 deletes references to the Election Campaign Financing Trust Fund, which expired, effective November 4, 1996, by operation of s. 19(f), Art. III, Fla. Const., and corrects cross-references & conforms other provisions of law throughout the Florida Election Code (chs. 97-106, F.S.).

The bill is effective upon approval of a constitutional amendment contained in HJR 281 which authorizes, or removes impediment to, enactment by the Legislature of the provisions of this bill. HJR 281, if enacted by the Legislature, will appear on the ballot at the November 2008 general election. Proposed constitutional amendments require approval by 60 percent of the electors voting in the election.

#### C. SECTION DIRECTORY:

The bill contains either repeals of complete statutory sections or deletions of selected text. No new language is contained in the bill.

Section 1. Repeals ss. 106.30 – 106.36, F.S., the “Florida Election Campaign Financing Act”.

Sections 2-12. Amends ss. 106.07, 106.141, 106.22, 106.265, 320.02, 322.08, 320.27, 328.72, 607.1622, 765.5215, and 765.5216, F.S.; deleting references to the Election Campaign Financing Trust Fund and correcting cross-references.

Section 13. Provides a contingent effective date .

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None

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<sup>3</sup> Section 48, ch. 2005-278, Laws of Fla.

<sup>4</sup> As of May 2007, there were 10,251,312 registered voters in the State of Florida.

2. Expenditures:

In excess of \$11 million from General Revenue Fund was disbursed in 2006 to participating candidates. In the prior three election cycles (normally every 4 years), the following aggregate amounts were distributed to statewide candidates from the General Revenue Fund:

- 1998 - \$4.6 million
- 2000 - \$914,885<sup>5</sup>
- 2002 - \$5.2 million

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the program is repealed, statewide candidates would no longer be able to depend on matching funds from the program to help fund their campaigns.

D. FISCAL COMMENTS:

This bill would potentially reduce/avoid future state expenditures from General Revenue Fund by an indeterminate amount.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of

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<sup>5</sup> In 2000, a non-gubernatorial election year, the two cabinet offices of State Treasurer and Commissioner of Education were up for election. At the time, Bill Nelson, as the State Treasurer, resigned from that office to run for U.S. Senate. Tom Gallagher, as the Commissioner of Education, ran for the State Treasurer post vacated by Nelson. Charlie Crist then ran for the Commissioner of Education post vacated by Mr. Gallagher. Crist, Gallagher and John Cosgrove received matching funds from the program in the 2000 election in the total amount listed above.

February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**D. STATEMENT OF THE SPONSOR**

Adoption of HJR 281/HB 277 will provide an opportunity for better utilization of tax dollars. To use public funds to help finance political campaigns prevents the funding of other programs that directly affect the quality of life for Floridians. Passing this bill and HJR 281 will also assist us in these next few years of "tight" budgets and enable the Legislature to direct General Revenue dollars to benefit more Floridians.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**