

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Ethics and Elections Committee

BILL: SB 958

INTRODUCER: Senator Oelrich

SUBJECT: Public Financing of Statewide Campaigns

DATE: March 7, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Rubinas	EE	Favorable
2.			JU	
3.			TA	
4.				
5.				
6.				

I. Summary:

Senate Bill 958 makes the necessary statutory deletions and conforming changes to complete a repeal of Florida's public financing program for statewide elections. The bill is tied to SJR 956, which proposes a repeal of the public campaign financing program found in Article VI, s. 7, Fla. Const.

If SJR 956 or similar constitutional amendment authorizing the repeal of Florida's public financing law is passed by the voters at the 2008 general election, this bill takes effect on Jan. 8, 2009.

This bill repeals sections 106.30, 106.31, 106.32, 106.33, 106.34, 106.35, 106.353, 106.355, and 106.36 of the Florida Statutes, and amends sections 106.07, 106.141, 106.22, 106.265, 320.02, 320.27, 322.08, 328.72, 607.1622, 765.5215, and 765.5216 of the Florida Statutes, to conform.

II. Present Situation:

Senate Bill 958 is linked to Senate Joint Resolution 956, which repeals Florida's public financing program for statewide candidates. (*For a comprehensive discussion of public financing, see Florida Senate, Committee on Ethics and Elections, Bill Analysis for SJR 956 (2008).*)

III. Effect of Proposed Changes:

Senate Bill 958 implements the repeal of Florida's public financing program for statewide elections proposed in Senate Joint Resolution 956, and makes other conforming statutory changes.

If SJR 956 or similar constitutional amendment authorizing the repeal of Florida's public financing law is passed by the voters at the 2008 general election, this bill takes effect on Jan. 8, 2009. Otherwise, this bill will not take effect.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

In the landmark case of *Buckley v. Valeo*, the United States Supreme Court ruled that laws imposing limitations on overall campaign expenditures by candidates violated the free speech guarantees of the U.S. Constitution.¹ The *Buckley* Court, however, upheld the federal statute providing for public financing of presidential elections, finding that overall campaign expenditures *may be limited* if a candidate *voluntarily* waives his or her right to make unlimited expenditures in exchange for receiving public campaign funds.²

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Statewide candidates would no longer be able to depend on public funds for their campaigns, and would likely turn to private contributions to fill the void. The precise fiscal impact is indeterminate.

C. Government Sector Impact:

The repeal of public financing will reduce an expenditure that occurs roughly every four years. The precise amount of the savings is indeterminate, as it will depend on a variety of factors such as how many candidates choose to participate in public financing, how

¹ *Buckley v. Valeo*, 424 U.S. 1, 54-58 (1976); see also, *Randall v. Sorrell*, 126 S.Ct. 2479, 2487-2491 (2006) (applying *Buckley* to invalidate Vermont law limiting overall campaign expenditures).

² *Id.* at 57, fn. 65 (Congress "may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations.")

many contested primaries have active participants, the number of contested primaries per race for statewide office, how actively the primaries and general elections are contested, whether and to what extent nonparticipating candidates exceed the expenditure limits in each race, etc.

That being said, the following amounts of public funds were distributed to statewide candidates in the last four statewide election cycles:

- 2006: \$11.1 million
- 2002: \$5.2 million
- 1998: \$4.6 million
- 1994: \$10.4 million

It is also worth noting that the 2005 increases to the expenditure limits dramatically raised the *potential* General Revenue exposure of the public financing program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.