

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 105 Resign-to-run Law
SPONSOR(S): Santiago
TIED BILLS: **IDEN./SIM. BILLS:** SB 186

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N	Toliver	Harrington
2) Public Integrity & Ethics Committee			

SUMMARY ANALYSIS

Current law requires a candidate for a *state, district, county, or municipal* public office to resign from office if any part of the term will run concurrently with the office the candidate presently holds. The resignation must be submitted at least 10 days prior to the first day of qualification for the office sought and is effective on the date the officer would take office, if elected, or the date the officer's successor is required to take office, whichever is earlier. The resign-to-run provision does not apply to persons currently holding federal office or to persons seeking the office of President or Vice President.

The bill requires state or local officers who qualify for *federal* public office to resign from the office they presently hold if the terms or any part thereof will run concurrently. The resignation is irrevocable and must be submitted at least 10 days before the first day of qualifying for the office sought. The resignation is effective on the date the officer takes office, if elected, or the date the officer's successor is required to take office, whichever is earlier. The failure of an officer to offer his or her resignation constitutes an automatic resignation, effective immediately, from the office he or she presently holds.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Current law requires state, district, county, or municipal public officers¹ to resign if that officer qualifies as a candidate for another office and the terms run concurrently.² The resignation must be in writing and once proffered it is irrevocable.³ The resignation must be submitted⁴ at least 10 days prior to the first day of qualification for the office sought and is effective on the date the officer would take office, if elected, or the date the officer's successor is required to take office, whichever is earlier.⁵ The resign-to-run statute does not apply to persons currently holding federal office or those seeking the office of President and Vice President.⁶

Until 2008, the law contained a similar resignation requirement for state or local officers running for *federal* office.⁷

Effect of the Bill

The bill requires state or local officers who qualify for *federal* public office to resign from the office they presently hold if the terms or any part thereof run concurrently. The resignation must be in writing and once proffered is irrevocable. The bill requires the resignation to be submitted at least 10 days before the first day of qualifying for the office that the candidate seeks. The resignation is effective on the date the officer takes office, if elected, or the date the officer's successor is required to take office, whichever is earlier. Any resignation of an elected officer under these provisions results in the office held becoming vacant upon the effective date of the resignation.

The person to whom the candidate must submit his or resignation varies according to the office held. If the officer is an elected district, county, or municipal officer, the resignation must be submitted to the officer before whom the officer initially qualified. If the officer is an appointed district, county, or municipal officer, the resignation must be submitted to the person or authority which appointed him or her. Any person holding public office that is not a district, county, or municipal officer must submit his or her resignation to the Governor.

The bill also contains an automatic resignation provision that becomes effective if an officer qualifies for federal public office without submitting the required resignation. In that instance, the resignation is irrevocable and effective immediately upon qualification. The Department of State must notify the appropriate authority of the resignation.

B. SECTION DIRECTORY:

Section 1 amends s. 99.012, F.S., relating to restrictions on individuals qualifying for public office.

Section 2 amends s. 121.121, F.S., making a conforming change.

¹ Section 99.012(1)(a), F.S., defines the term "officer" to mean a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the Florida Constitution or laws of the state. With respect to a municipality, the term "officer" means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the Florida Constitution, state laws, or municipal charter.

² Section 99.012(3), F.S.

³ Section 99.012(3)(b), F.S.

⁴ See s. 99.012(3)(e), F.S.

⁵ Section 99.012(3)(d), F.S.

⁶ Section 99.012(7), F.S.

⁷ Chapter 2007-30, L.O.F.

Section 3 provides an effective date of upon becoming a law.

II. 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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Art. VII, s. 18 of the Florida Constitution because it is an election law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.