

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 Committee on Ethics and Elections

BILL: SB 1428

INTRODUCER: Senator Perry

SUBJECT: Disposition of Surplus Funds by Candidates

DATE: March 13, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	Pre-meeting
2.			GO	
3.			RC	

I. Summary:

SB 1428 places a limitation on the current charitable option for the disposition of surplus campaign funds. It prohibits a candidate from donating any such funds to a s. 501(c)(3) organization in exchange for anything of value to himself or herself, or to the candidate's spouse, parent, child, or sibling.

The bill takes effect July 1, 2019.

II. Present Situation:

A candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated or elected to office must dispose of surplus funds in his or her campaign account within 90 days and file a termination report reflecting the disposition of all remaining funds.¹ Florida law generally provides former candidates with 7 nonexclusive options for disposing of surplus funds:²

- Return funds *pro rata* to contributors;
- **Make a charitable donation;**
- Rebate up to \$25,000 to the candidate's political party;
- Deposit funds to General Revenue Fund of State (candidates for state office) or local political subdivision (local candidates);
- Purchase "thank you" advertising for up to 75 days;
- Pay for items obligated before the candidate withdrew, became unopposed, or was eliminated or elected; and,

¹ Section 106.141, F.S.

² Sections 106.09(5) and 106.141(4)(a), F.S. Successful candidates have the additional option to transfer a certain amount of the surplus funds to an "office account," to be used for "legitimate expenses in connection with the candidate's public office." Section 106.141(5), F.S. Candidates receiving public campaign financing must return *all* excess funds to the State General Revenue Fund after paying for any items for which the campaign was liable before withdrawing, becoming unopposed, or being eliminated or elected. Section 106.141(4)(b), F.S.

- Pay for necessary expenses to close down the campaign office and prepare final reports.

The specific statutory language for the charitable option authorizes candidates to:

Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the requirements of s. 501(c)(3) of the Internal Revenue Code.³

Thus, the only limitation is that funds must be given to a 501(c)(3) organization(s).

III. Effect of Proposed Changes:

Senate Bill 1428 plainly provides that, for charitable donations:

...[T]he candidate, or the candidates spouse, parent, child, or sibling, may not receive, either directly or indirectly, anything of value, including a gift, loan, reward, promise of future employment, favor, or service, in exchange for such donation.

The scope of the contemplated *quid pro quo* prohibition counsels in favor of donating surplus funds *solely* to those 501(c)(3) charitable organization(s) with which the candidate, and his or her spouse, parent, child, or sibling, does not have any current or recent relationship — beyond, perhaps, that of a modest donor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

³ Section 106.141(4)(a)2., F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 106.141 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.