

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 921 Limitations on Political Contributions

SPONSOR(S): Drake

TIED BILLS: IDEN./SIM. BILLS: SB 1352

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Public Integrity & Elections Committee		Roy	Rubottom
2) State Affairs Committee			

SUMMARY ANALYSIS

Federal law currently restricts contributions from foreign entities for federal and state candidate elections, including contributions to political party committees as well as contributions for electioneering communications. That law defines “foreign government or entity” to include persons, and businesses not subject to U.S. jurisdiction.

Florida presently regulates campaign contributions both candidate and issue elections. Florida imposes no specific restrictions on foreign contributors.

HB 921 amends Florida law to emulate the federal prohibition and expand on the federal statutes relating to foreign contributions, with a substantively equivalent definition of “foreign national”. The proposal affects all elections, both candidate races and ballot questions.

This bill has an effective date of July 1, 2022

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal law defines “election” to mean “a general, special, primary, or runoff election” as well as “a convention or caucus of a political party which has authority to nominate a candidate.”¹ This definition excludes ballot question campaigns.

Under federal law, it is unlawful for a foreign national to make a contribution, donation, or to make a promise to make a contribution or donation in connection with a federal, state, local election, committee of a political party, or an expenditure, or disbursement for an electioneering communication.² A person who solicits, accepts, or receives a contribution or donation for purposes as described above has also acted unlawfully.³

Federal law defines foreign national to mean a foreign principle⁴ or an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence.⁵

Florida statutes also place limitations on election campaign contributions to candidate for retention as a judge of a district court of appeal, legislative office, statewide, multicounty, countywide, county court judge or circuit judge retention as a justice of the Supreme Court, or political committees that are the sponsor of or are in opposition to a constitutional amendment proposed by initiative.⁶

Any person who knowingly and willfully makes or accepts contributions in violation of the restrictions, or fails or refuses to return any contribution violating the restrictions, commits a misdemeanor of the first degree. If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, or electioneering communications organization is convicted of the above, it shall be fined no less than \$1,000 and no more than \$10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited.⁷

Florida’s campaign finance laws are enforced by the Florida Elections Commission.⁸

Effect of Proposed Changes

HB 921 adds definitions relating to contributions and limitations of political donations. The bill defines “foreign national” to mean:

- A foreign government;
- A foreign political party;
- A foreign corporation, partnership association, organization, or other combination of persons organized under the laws of or having its principle place of business in a foreign country;
- A person with foreign citizenship; or

¹ 52 U.S. Code § 30101(1)

² 52 U.S. Code § 30121(1)

³ 52 U.S. Code § 30121(2)

⁴ 22 U.S. Code § 611(b). A foreign principle is a foreign government, political party, business organization organized under laws of or having a principle place of business in a foreign country, a person outside the U.S not established to be an individual domiciled or a citizen of the U.S., or an organization outside the U.S. not organized or created by the laws of the U.S. or any state or other place subject to the U.S. with a principle place of business in the U.S.

⁵ 11 CFR § 110.20(3).

⁶ S. 106.08(1)(a), F.S

⁷ S. 106.08(7)(a), F.S

⁸ S. 106.26(1), F.S.

- A person who is not a citizen or national of the United States and is not lawfully admitted to the United States for permanent residence.

The proposed definitions are substantively equivalent to the relevant federal definitions.

The bill prohibits foreign nationals from directly or indirectly making or offering to make a contribution or expenditure in connection with any election held in the state. The language includes both candidate and ballot question campaigns.

B. SECTION DIRECTORY:

Section 1: Defines foreign national, and provides that a foreign national may not make or offer to make contributions to state campaigns.

Section 2: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill may cost an insignificant amount for enforcement.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would deter some private sector political fundraising and spending.

D. FISCAL COMMENTS:

N/A

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require local governments to spend funds or limit their ability to raise revenue or receive state tax revenue.

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill references federal law in a manner that may confuse the interpreter. It states that its operative provisions are “consistent with” federal law, but that may be read to limit the effect of the bill. If the reference has substance it constitutes an unconstitutional delegation or subjugation of state legislative power to federal authority. It would be better to state what the bill prohibits without such reference.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES