

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 921 Campaign Financing

SPONSOR(S): State Affairs Committee and Public Integrity & Elections Committee, Drake and others

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

FINAL HOUSE FLOOR ACTION: 80 Y's 40 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/HB 921 passed the house on March 10, 2022. The bill was amended in the Senate on March 4, 2022 and passed as amended on March 7, 2022 and sent to the house. The House amended the bill on March 10, 2022.

Florida presently regulates campaign contributions both candidate and issue elections. Florida imposes no specific restrictions on foreign contributors. Florida does limit contributions to sponsors of initiative petitions and opposing committees during the period of petition circulation.

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.

CS/CS/HB 921 amends Florida law to revise the limit on contributions to petition circulating committees to apply only to non-resident contributors and political committees without a registered Florida office. The bill also emulates the federal prohibition on foreign contributions providing a substantively equivalent definition of "foreign national". The foreign contribution ban will apply to all elections, both candidate races and ballot questions.

The bill was approved by the Governor on April 6, 2022, ch. 2022-56, L.O.F., and will become effective on July 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Campaign Contribution Restrictions

Present Situation

Florida presently regulates campaign contributions both candidate and issue elections. Florida imposes no specific restrictions on foreign contributors. Florida imposes a limit of \$3,000 on contributions to sponsors of initiative petitions and opposing committees during the period of petition circulation.

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.” 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. A person who solicits, accepts, or receives a contribution or donation for purposes as described above has also acted unlawfully.

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

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.

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.

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

Effect of Proposed Changes

CS/CS/HB 921 revises the petition circulation contribution limit to apply only to non-resident contributions to a petition sponsoring or opposing party and political committees that do not have a registered Florida address.

The bill 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
- 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 term does not include a person who is a dual citizen or dual national of the United States and a foreign country.

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.

Local Government Electioneering Expenditures

Present Situation

Presently, a local government or person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. This subsection does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information.

Effects of Proposed Change

CS/CS/HB 921 prohibits the use of public funds by local government or its actors from being spent on any communication sent to electors concerning issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. This applies to communication initiated by a local government or its actors irrespective of whether the communication is limited to factual information or advocates for the passage or defeat of a issue subject to a vote.

This limitation does not preclude a local government or those acting on behalf of the local government from reporting on information otherwise permissible or required by law.

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: