

Committee on Ethics & Elections

**Thursday, February 21, 2008
1:30-3:30 PM
12 HOB**

Meeting Packet

**Marco Rubio
Speaker**

**Pat Patterson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Ethics & Elections

Start Date and Time: Thursday, February 21, 2008 01:30 pm

End Date and Time: Thursday, February 21, 2008 03:30 pm

Location: 12 HOB

Duration: 2.00 hrs

Consideration of the following bill(s):

HJR 281 Repeal of Public Campaign Financing Requirement by Hays

HB 277 Public Campaign Financing by Hays

Presentation by Secretary of State Kurt Browning/Department of State staff


NOTICE FINALIZED on 02/14/2008 15:08 by MURPHY.NANCY

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 277 Public Campaign Financing

SPONSOR(S): Hays

TIED BILLS: HJR 281 IDEN./SIM. BILLS: SB 958

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Ethics & Elections		Mitchell 	Mitchell
2) Economic Expansion & Infrastructure Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 277 makes the necessary statutory deletions to complete a repeal of the Florida Election Campaign Financing Act, as provided in ss. 106.30-106.36, F.S. The bill is tied to HJR 281, which proposes a repeal of the public campaign financing program found in Article VI, s. 7, Fla. Const. That section provides:

It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

HB 277 is effective upon approval by the electors of HJR 281 at the November 2008 general election.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill appears to implicate one of the House principles, "Provide limited government." A repeal of the public matching funds program would reduce the role of state government in the campaign process and eliminate the expenditure of public money to help fund statewide campaigns.

B. EFFECT OF PROPOSED CHANGES:

Currently, the Florida Constitution requires public campaign financing for statewide candidates (Governor and cabinet officers), with implementation by general law. Article VI, s. 7, Fla. Const., provides:

It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

The above provision has been in place since 1998 after being proposed by the Constitution Revision Commission and approved by the voters in the 1998 general election. The statutory component, however, has been in place since 1986.¹

Public campaign financing or matching funds program is provided by general law in ss. 106.30-106.355, F.S., and administered by the Department of State's Division of Elections (Division). The program can be summarized as follows:

- Participating statewide candidates must have opposition;
- Only personal contributions from state residents are eligible for matching;² corporate and political committee contributions are not eligible for matching;
- Contributions received after September 1 of the calendar year preceding the election (Sept, 1 2007, for the 2008 election cycle) are eligible for matching;
- Participating candidates must raise an initial amount of \$150,000 (for gubernatorial candidates) or \$100,000 (for candidates for Cabinet offices);
- The threshold amounts above are matched on a two-to-one basis, and after that, a contribution is eligible to be matched on a one-to-one basis, up to \$250. Thus, if a person makes a \$250 contribution, it is matched with \$250

¹ Chapter 86-276, Laws of Fla.

² In 2001, the Legislature enacted a law that excluded out-of-state contributions from eligibility for matching. (s. 69, ch. 2001-40, Laws of Fla.)

from the state. But, if for example, a person makes a \$500 contribution, only \$250 of that contribution will be matched.

Candidates for statewide office must complete a form declaring their intention to apply for public campaign financing at the time of qualifying and after this declaration, submit their contributions for audit by the Division to determine eligibility for the match. The Division then audits the submissions and makes payment to the candidate, beginning immediately after the qualifying period ends and every seven days thereafter.

Participating candidates must abide by certain expenditure limits, pursuant to s. 106.34, F.S. In 2005, the Legislature increased those expenditure limits³ as follows:

Gov./Lt. Gov – Increased from \$5 million to \$2.00 per each Florida-registered voter, or roughly **\$20.5 million**.⁴

Cabinet Offices – Increased from \$2 million to \$1.00 per each Florida-registered voter, or roughly **\$10.2 million**.

HB 277 deletes references to the Election Campaign Financing Trust Fund, which expired, effective November 4, 1996, by operation of s. 19(f), Art. III, Fla. Const., and corrects cross-references & conforms other provisions of law throughout the Florida Election Code (chs. 97-106, F.S.).

The bill is effective upon approval of a constitutional amendment contained in HJR 281 which authorizes, or removes impediment to, enactment by the Legislature of the provisions of this bill. HJR 281, if enacted by the Legislature, will appear on the ballot at the November 2008 general election. Proposed constitutional amendments require approval by 60 percent of the electors voting in the election.

C. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

³ Section 48, ch. 2005-278, Laws of Fla.

⁴ As of May 2007, there were 10,251,312 registered voters in the State of Florida.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

In excess of \$11 million was doled out in 2006 to participating candidates. In the prior three election cycles (normally every 4 years), the following aggregate amounts were distributed to statewide candidates from the General Revenue fund:

- 1998 - \$4.6 million
- 2000 - \$914,885⁵
- 2002 - \$5.2 million

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the program is repealed, statewide candidates would no longer be able to depend on matching funds from the program to help fund their campaigns.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

⁵ In 2000, a non-gubernatorial election year, the two cabinet offices of State Treasurer and Commissioner of Education were up for election. At the time, Bill Nelson, as the State Treasurer, resigned from that office to run for U.S. Senate. Tom Gallagher, as the Commissioner of Education, ran for the State Treasurer post vacated by Nelson. Charlie Crist then ran for the Commissioner of Education post vacated by Mr. Gallagher. Crist, Gallagher and John Cosgrove received matching funds from the program in the 2000 election in the amounts listed above.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

Adoption of HJR 281/HB 277 will provide an opportunity for better utilization of tax dollars. To use public funds to help finance political campaigns prevents the funding of other programs that directly affect the quality of life for Floridians. Passing this bill and HJR 281 will also assist us in these next few years of "tight" budgets and enable the Legislature to direct General Revenue dollars to benefit more Floridians.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to public campaign financing; repealing
 3 ss. 106.30-106.36, F.S., the "Florida Election Campaign
 4 Financing Act"; amending ss. 106.07, 106.141, 106.22,
 5 106.265, 320.02, 322.08, 328.72, and 607.1622, F.S.;
 6 deleting references to the Election Campaign Financing
 7 Trust Fund, which expired, effective November 4, 1996, by
 8 operation of s. 19(f), Art. III of the State Constitution;
 9 amending ss. 320.27, 765.5215, and 765.5216, F.S.;
 10 correcting cross-references; providing a contingent
 11 effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Sections 106.30, 106.31, 106.32, 106.33,
 16 106.34, 106.35, 106.353, 106.355, and 106.36, Florida Statutes,
 17 are repealed.

18 Section 2. Subsection (1) of section 106.07, Florida
 19 Statutes, is amended to read:

20 106.07 Reports; certification and filing.--

21 (1) Each campaign treasurer designated by a candidate or
 22 political committee pursuant to s. 106.021 shall file regular
 23 reports of all contributions received, and all expenditures
 24 made, by or on behalf of such candidate or political committee.
 25 Reports shall be filed on the 10th day following the end of each
 26 calendar quarter from the time the campaign treasurer is
 27 appointed, except that, if the 10th day following the end of a
 28 calendar quarter occurs on a Saturday, Sunday, or legal holiday,

29 the report shall be filed on the next following day which is not
 30 a Saturday, Sunday, or legal holiday. Quarterly reports shall
 31 include all contributions received and expenditures made during
 32 the calendar quarter which have not otherwise been reported
 33 pursuant to this section.

34 (a) ~~Except as provided in paragraph (b),~~ Following the
 35 last day of qualifying for office, the reports shall be filed on
 36 the 32nd, 18th, and 4th days immediately preceding the primary
 37 and on the 46th, 32nd, 18th, and 4th days immediately preceding
 38 the election, for a candidate who is opposed in seeking
 39 nomination or election to any office, for a political committee,
 40 or for a committee of continuous existence.

41 ~~(b) Following the last day of qualifying for office, any~~
 42 ~~statewide candidate who has requested to receive contributions~~
 43 ~~from the Election Campaign Financing Trust Fund or any statewide~~
 44 ~~candidate in a race with a candidate who has requested to~~
 45 ~~receive contributions from the trust fund shall file reports on~~
 46 ~~the 4th, 11th, 18th, 25th, and 32nd days prior to the primary~~
 47 ~~election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th,~~
 48 ~~and 53rd days prior to the general election.~~

49 (b)(e) Following the last day of qualifying for office,
 50 any unopposed candidate need only file a report within 90 days
 51 after the date such candidate became unopposed. Such report
 52 shall contain all previously unreported contributions and
 53 expenditures as required by this section and shall reflect
 54 disposition of funds as required by s. 106.141.

55 (c)(d)1. When a special election is called to fill a
 56 vacancy in office, all political committees and committees of

57 continuous existence making contributions or expenditures to
 58 influence the results of such special election shall file
 59 campaign treasurers' reports with the filing officer on the
 60 dates set by the Department of State pursuant to s. 100.111.

61 2. When an election is called for an issue to appear on
 62 the ballot at a time when no candidates are scheduled to appear
 63 on the ballot, all political committees making contributions or
 64 expenditures in support of or in opposition to such issue shall
 65 file reports on the 18th and 4th days prior to such election.

66 (d)~~(e)~~ The filing officer shall provide each candidate
 67 with a schedule designating the beginning and end of reporting
 68 periods as well as the corresponding designated due dates.

69 Section 3. Subsection (4) of section 106.141, Florida
 70 Statutes, is amended to read:

71 106.141 Disposition of surplus funds by candidates.--

72 ~~(4) (a) Except as provided in paragraph (b),~~ Any candidate
 73 required to dispose of funds pursuant to this section shall, at
 74 the option of the candidate, dispose of such funds by any of the
 75 following means, or any combination thereof:

76 (a) 1- Return pro rata to each contributor the funds that
 77 have not been spent or obligated.

78 (b) 2- Donate the funds that have not been spent or
 79 obligated to a charitable organization or organizations that
 80 meet the qualifications of s. 501(c)(3) of the Internal Revenue
 81 Code.

82 (c) 3- Give not more than \$10,000 of the funds that have
 83 not been spent or obligated to the political party of which such
 84 candidate is a member, except that a candidate for the Florida

85 Senate may give not more than \$30,000 of such funds to the
 86 political party of which the candidate is a member.

87 (d)4. Give the funds that have not been spent or
 88 obligated:

89 1.a. In the case of a candidate for state office, to the
 90 state, to be deposited in ~~either the Election Campaign Financing~~
 91 ~~Trust Fund or the General Revenue Fund, as designated by the~~
 92 candidate; or

93 2.b. In the case of a candidate for an office of a
 94 political subdivision, to such political subdivision, to be
 95 deposited in the general fund thereof.

96 ~~(b) Any candidate required to dispose of funds pursuant to~~
 97 ~~this section who has received contributions from the Election~~
 98 ~~Campaign Financing Trust Fund shall return all surplus campaign~~
 99 ~~funds to the Election Campaign Financing Trust Fund.~~

100 Section 4. Subsection (6) of section 106.22, Florida
 101 Statutes, is amended to read:

102 106.22 Duties of the Division of Elections.--It is the
 103 duty of the Division of Elections to:

104 (6) Make, from time to time, audits and field
 105 investigations with respect to reports and statements filed
 106 under the provisions of this chapter and with respect to alleged
 107 failures to file any report or statement required under the
 108 provisions of this chapter. ~~The division shall conduct a~~
 109 ~~postelection audit of the campaign accounts of all candidates~~
 110 ~~receiving contributions from the Election Campaign Financing~~
 111 ~~Trust Fund.~~

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112 Section 5. Subsections (3), (4), and (5) of section
 113 106.265, Florida Statutes, are amended to read:

114 106.265 Civil penalties.--

115 (3) Any civil penalty collected pursuant to the provisions
 116 of this section shall be deposited into the General Revenue
 117 ~~Election Campaign Financing Trust~~ Fund.

118 ~~(4) Notwithstanding any other provisions of this chapter,~~
 119 ~~any fine assessed pursuant to the provisions of this chapter,~~
 120 ~~which fine is designated to be deposited or which would~~
 121 ~~otherwise be deposited into the General Revenue Fund of the~~
 122 ~~state, shall be deposited into the Election Campaign Financing~~
 123 ~~Trust Fund.~~

124 ~~(4)~~ (5) In any case in which the commission determines that
 125 a person has filed a complaint against another person with a
 126 malicious intent to injure the reputation of the person
 127 complained against by filing the complaint with knowledge that
 128 the complaint contains one or more false allegations or with
 129 reckless disregard for whether the complaint contains false
 130 allegations of fact material to a violation of this chapter or
 131 chapter 104, the complainant shall be liable for costs and
 132 reasonable attorney's fees incurred in the defense of the person
 133 complained against, including the costs and reasonable
 134 attorney's fees incurred in proving entitlement to and the
 135 amount of costs and fees. If the complainant fails to pay such
 136 costs and fees voluntarily within 30 days following such finding
 137 by the commission, the commission shall forward such information
 138 to the Department of Legal Affairs, which shall bring a civil

139 | action in a court of competent jurisdiction to recover the
 140 | amount of such costs and fees awarded by the commission.

141 | Section 6. Subsections (14) through (17) of section
 142 | 320.02, Florida Statutes, are renumbered as subsections (13)
 143 | through (16), respectively, and present subsection (13) of that
 144 | section is amended to read:

145 | 320.02 Registration required; application for
 146 | registration; forms.--

147 | ~~(13) The application form for motor vehicle registration~~
 148 | ~~shall include language permitting a voluntary contribution of \$5~~
 149 | ~~per applicant, which contribution shall be transferred into the~~
 150 | ~~Election Campaign Financing Trust Fund. A statement providing an~~
 151 | ~~explanation of the purpose of the trust fund shall also be~~
 152 | ~~included.~~

153 | Section 7. Paragraph (b) of subsection (9) of section
 154 | 320.27, Florida Statutes, is amended to read:

155 | 320.27 Motor vehicle dealers.--

156 | (9) DENIAL, SUSPENSION, OR REVOCATION.--

157 | (b) The department may deny, suspend, or revoke any
 158 | license issued hereunder or under the provisions of s. 320.77 or
 159 | s. 320.771 upon proof that a licensee has committed, with
 160 | sufficient frequency so as to establish a pattern of wrongdoing
 161 | on the part of a licensee, violations of one or more of the
 162 | following activities:

163 | 1. Representation that a demonstrator is a new motor
 164 | vehicle, or the attempt to sell or the sale of a demonstrator as
 165 | a new motor vehicle without written notice to the purchaser that
 166 | the vehicle is a demonstrator. For the purposes of this section,

167 a "demonstrator," a "new motor vehicle," and a "used motor
 168 vehicle" shall be defined as under s. 320.60.

169 2. Unjustifiable refusal to comply with a licensee's
 170 responsibility under the terms of the new motor vehicle warranty
 171 issued by its respective manufacturer, distributor, or importer.
 172 However, if such refusal is at the direction of the
 173 manufacturer, distributor, or importer, such refusal shall not
 174 be a ground under this section.

175 3. Misrepresentation or false, deceptive, or misleading
 176 statements with regard to the sale or financing of motor
 177 vehicles which any motor vehicle dealer has, or causes to have,
 178 advertised, printed, displayed, published, distributed,
 179 broadcast, televised, or made in any manner with regard to the
 180 sale or financing of motor vehicles.

181 4. Failure by any motor vehicle dealer to provide a
 182 customer or purchaser with an odometer disclosure statement and
 183 a copy of any bona fide written, executed sales contract or
 184 agreement of purchase connected with the purchase of the motor
 185 vehicle purchased by the customer or purchaser.

186 5. Failure of any motor vehicle dealer to comply with the
 187 terms of any bona fide written, executed agreement, pursuant to
 188 the sale of a motor vehicle.

189 6. Failure to apply for transfer of a title as prescribed
 190 in s. 319.23(6).

191 7. Use of the dealer license identification number by any
 192 person other than the licensed dealer or his or her designee.

193 8. Failure to continually meet the requirements of the
 194 licensure law.

195 9. Representation to a customer or any advertisement to
 196 the public representing or suggesting that a motor vehicle is a
 197 new motor vehicle if such vehicle lawfully cannot be titled in
 198 the name of the customer or other member of the public by the
 199 seller using a manufacturer's statement of origin as permitted
 200 in s. 319.23(1).

201 10. Requirement by any motor vehicle dealer that a
 202 customer or purchaser accept equipment on his or her motor
 203 vehicle which was not ordered by the customer or purchaser.

204 11. Requirement by any motor vehicle dealer that any
 205 customer or purchaser finance a motor vehicle with a specific
 206 financial institution or company.

207 12. Requirement by any motor vehicle dealer that the
 208 purchaser of a motor vehicle contract with the dealer for
 209 physical damage insurance.

210 13. Perpetration of a fraud upon any person as a result of
 211 dealing in motor vehicles, including, without limitation, the
 212 misrepresentation to any person by the licensee of the
 213 licensee's relationship to any manufacturer, importer, or
 214 distributor.

215 14. Violation of any of the provisions of s. 319.35 by any
 216 motor vehicle dealer.

217 15. Sale by a motor vehicle dealer of a vehicle offered in
 218 trade by a customer prior to consummation of the sale, exchange,
 219 or transfer of a newly acquired vehicle to the customer, unless
 220 the customer provides written authorization for the sale of the
 221 trade-in vehicle prior to delivery of the newly acquired
 222 vehicle.

223 16. Willful failure to comply with any administrative rule
 224 adopted by the department or the provisions of s. 320.131(8).

225 17. Violation of chapter 319, this chapter, or ss.
 226 559.901-559.9221, which has to do with dealing in or repairing
 227 motor vehicles or mobile homes. Additionally, in the case of
 228 used motor vehicles, the willful violation of the federal law
 229 and rule in 15 U.S.C. s. 2304, 16 C.F.R. part 455, pertaining to
 230 the consumer sales window form.

231 18. Failure to maintain evidence of notification to the
 232 owner or coowner of a vehicle regarding registration or titling
 233 fees owed as required in s. 320.02(16)~~(17)~~.

234 19. Failure to register a mobile home salesperson with the
 235 department as required by this section.

236 Section 8. Subsection (6) of section 322.08, Florida
 237 Statutes, is amended to read:

238 322.08 Application for license.--

239 (6) The application form for a driver's license or
 240 duplicate thereof shall include language permitting the
 241 following:

242 ~~(a) A voluntary contribution of \$5 per applicant, which~~
 243 ~~contribution shall be transferred into the Election Campaign~~
 244 ~~Financing Trust Fund.~~

245 (a)~~(b)~~ A voluntary contribution of \$1 per applicant, which
 246 contribution shall be deposited into the Florida Organ and
 247 Tissue Donor Education and Procurement Trust Fund for organ and
 248 tissue donor education and for maintaining the organ and tissue
 249 donor registry.

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250 (b)~~(e)~~ A voluntary contribution of \$1 per applicant, which
 251 contribution shall be distributed to the Florida Council of the
 252 Blind.

253 (c)~~(d)~~ A voluntary contribution of \$2 per applicant, which
 254 shall be distributed to the Hearing Research Institute,
 255 Incorporated.

256 (d)~~(e)~~ A voluntary contribution of \$1 per applicant, which
 257 shall be distributed to the Juvenile Diabetes Foundation
 258 International.

259 (e)~~(f)~~ A voluntary contribution of \$1 per applicant, which
 260 shall be distributed to the Children's Hearing Help Fund.

261

262 A statement providing an explanation of the purpose of the trust
 263 funds shall also be included. For the purpose of applying the
 264 service charge provided in s. 215.20, contributions received
 265 under paragraphs (b), (c), (d), and (e)~~and (f)~~ and under s.
 266 322.18(9)(a) are not income of a revenue nature.

267 Section 9. Subsection (11) of section 328.72, Florida
 268 Statutes, is amended to read:

269 328.72 Classification; registration; fees and charges;
 270 surcharge; disposition of fees; fines; marine turtle stickers.--

271 (11) VOLUNTARY CONTRIBUTIONS.--The application form for
 272 boat registration shall include a provision to allow each
 273 applicant to indicate a desire to pay an additional voluntary
 274 contribution to the Save the Manatee Trust Fund to be used for
 275 the purposes specified in s. 370.12(4). This contribution shall
 276 be in addition to all other fees and charges. The amount of the
 277 request for a voluntary contribution solicited shall be \$2 or \$5

278 | per registrant. A registrant who provides a voluntary
 279 | contribution of \$5 or more shall be given a sticker or emblem by
 280 | the tax collector to display, which signifies support for the
 281 | Save the Manatee Trust Fund. All voluntary contributions shall
 282 | be deposited in the Save the Manatee Trust Fund and shall be
 283 | used for the purposes specified in s. 370.12(4). ~~The form shall~~
 284 | ~~also include language permitting a voluntary contribution of \$5~~
 285 | ~~per applicant, which contribution shall be transferred into the~~
 286 | ~~Election Campaign Financing Trust Fund. A statement providing an~~
 287 | ~~explanation of the purpose of the trust fund shall also be~~
 288 | ~~included.~~

289 | Section 10. Subsection (1) of section 607.1622, Florida
 290 | Statutes, is amended to read:

291 | 607.1622 Annual report for Department of State.--

292 | (1) Each domestic corporation and each foreign corporation
 293 | authorized to transact business in this state shall deliver to
 294 | the Department of State for filing a sworn annual report on such
 295 | forms as the Department of State prescribes that sets forth:

296 | (a) The name of the corporation and the state or country
 297 | under the law of which it is incorporated. +

298 | (b) The date of incorporation or, if a foreign
 299 | corporation, the date on which it was admitted to do business in
 300 | this state. +

301 | (c) The address of its principal office and the mailing
 302 | address of the corporation. +

303 | (d) The corporation's federal employer identification
 304 | number, if any, or, if none, whether one has been applied for. +

305 (e) The names and business street addresses of its
 306 directors and principal officers. 7

307 (f) The street address of its registered office and the
 308 name of its registered agent at that office in this state. 7

309 ~~(g) Language permitting a voluntary contribution of \$5 per~~
 310 ~~taxpayer, which contribution shall be transferred into the~~
 311 ~~Election Campaign Financing Trust Fund. A statement providing an~~
 312 ~~explanation of the purpose of the trust fund shall also be~~
 313 ~~included; and~~

314 (g) ~~(h)~~ Such additional information as may be necessary or
 315 appropriate to enable the Department of State to carry out the
 316 provisions of this act.

317 Section 11. Subsection (1) of section 765.5215, Florida
 318 Statutes, is amended to read:

319 765.5215 Education program relating to anatomical
 320 gifts.--The Agency for Health Care Administration, subject to
 321 the concurrence of the Department of Highway Safety and Motor
 322 Vehicles, shall develop a continuing program to educate and
 323 inform medical professionals, law enforcement agencies and
 324 officers, high school children, state and local government
 325 employees, and the public regarding the laws of this state
 326 relating to anatomical gifts and the need for anatomical gifts.

327 (1) The program is to be implemented with the assistance
 328 of the organ and tissue donor education panel as provided in s.
 329 765.5216 and with the funds collected under ss. 320.08047 and
 330 322.08(6) (a) ~~(b)~~. Existing community resources, when available,
 331 must be used to support the program, and volunteers may assist
 332 the program to the maximum extent possible. The Agency for

333 Health Care Administration may contract for the provision of all
 334 or any portion of the program. When awarding such contract, the
 335 agency shall give priority to existing nonprofit groups that are
 336 located within the community, including within the minority
 337 communities specified in subsection (2). The program aimed at
 338 educating medical professionals may be implemented by contract
 339 with one or more medical schools located in the state.

340 Section 12. Subsection (1) of section 765.5216, Florida
 341 Statutes, is amended to read:

342 765.5216 Organ and tissue donor education panel.--

343 (1) The Legislature recognizes that there exists in the
 344 state a shortage of organ and tissue donors to provide the
 345 organs and tissue that could save lives or enhance the quality
 346 of life for many Floridians. The Legislature further recognizes
 347 the need to encourage the various minority populations of
 348 Florida to donate organs and tissue. It is the intent of the
 349 Legislature that the funds collected pursuant to ss. 320.08047
 350 and 322.08(6) (a) ~~(b)~~ be used for educational purposes aimed at
 351 increasing the number of organ and tissue donors, thus affording
 352 more Floridians who are awaiting organ or tissue transplants the
 353 opportunity for a full and productive life.


354 Section 13. This act shall take effect on the effective
 355 date of an amendment to the State Constitution approved by the
 356 electors at the general election to be held in November 2008
 357 which authorizes, or removes impediment to, enactment by the
 358 Legislature of the provisions of this act.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 281 Repeal of Public Campaign Financing Requirement

SPONSOR(S): Hays

TIED BILLS: HB 277 IDEN./SIM. BILLS: SJR 956

DIRECTOR	REFERENCE	ACTION	ANALYST	STAFF
	1) <u>Committee on Ethics & Elections</u>	_____	Mitchell 	Mitchell
	2) <u>Economic Expansion & Infrastructure Council</u>	_____	_____	_____
	3) <u>Policy & Budget Council</u>	_____	_____	_____
	4) _____	_____	_____	_____
	5) _____	_____	_____	_____

SUMMARY ANALYSIS

HJR 281 is a joint resolution that would repeal Florida's public financing program for statewide candidates. The program is found in Article VI, s. 7, Fla. Const., and provides:

It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

The joint resolution to repeal the program must be approved by a 3/5 vote of the membership of each house of the Legislature. If enacted by such a vote, the proposal will be presented to the electors of Florida at the November 4, 2008, general election. Approval requires a favorable vote from 60 percent or more of the electors in the state.

If approved, repeal of the program would take effect January 8, 2009.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill appears to implicate one of the House principles, "Provide limited government." A repeal of the public matching funds program would reduce the role of state government in the campaign process and eliminate the expenditure of public money to help fund statewide campaigns.

B. EFFECT OF PROPOSED CHANGES:

Currently, the Florida Constitution requires public campaign financing for statewide candidates (Governor and cabinet officers), with implementation by general law. Article VI, s. 7, Fla. Const., provides:

It is the policy of this state to provide for state-wide elections in which all qualified candidates may compete effectively. A method of public financing for campaigns for state-wide office shall be established by law. Spending limits shall be established for such campaigns for candidates who use public funds in their campaigns. The legislature shall provide funding for this provision. General law implementing this paragraph shall be at least as protective of effective competition by a candidate who uses public funds as the general law in effect on January 1, 1998.

The Constitutional provision has been in place since 1998, after being proposed by the Constitution Revision Commission and approved by the voters in the 1998 general election. The program itself however has been in place since 1986.¹

The matching funds program is provided by general law in ss. 106.30-106.355, F.S., and administered by the Department of State's Division of Elections (Division). The program can be summarized as follows:

- Participating statewide candidates must have opposition;
- Only personal contributions from state residents are eligible for matching;² corporate and political committee contributions are not eligible for matching;
- Contributions received after September 1 of the calendar year preceding the election (Sept, 1 2007, for the 2008 election cycle) are eligible for matching;
- Participating candidates must raise an initial amount of \$150,000 (for gubernatorial candidates) or \$100,000 (for candidates for Cabinet offices);
- The threshold amounts above are matched on a two-to-one basis, and after that, a contribution is eligible to be matched on a one-to-one basis, up to \$250. Thus, if a person makes a \$250 contribution, it is matched

¹ Chapter 86-276, Laws of Fla.

² In 2001, the Legislature enacted a law that excluded out-of-state contributions from eligibility for matching. (s. 69, ch. 2001-40, Laws of Fla.)

with \$250 from the state. But if for example, a person makes a \$500 contribution, only \$250 of that contribution will be matched;

Participating candidates must complete a form declaring their intention to apply for public campaign financing at the time of qualifying and after this declaration, submit their contributions for audit by the Division to determine eligibility for the match. The Division audits the submissions and makes payment to the candidate, beginning immediately on the 32nd day before the primary election and every seven days thereafter.

The program was originally funded from the Election Campaign Financing Trust Fund, which was established in 1986. The Trust Fund was funded with filing fees, assessments and civil penalties collected by the Florida Elections Commission. The Trust Fund expired by operation of s. 19(f), Article III, Fla. Constitution, on November 4, 1996, which requires state trust funds in existence prior to 1992 to terminate not more than four years from November 4, 1992. Since the Trust Fund terminated, the program has been funded from General Revenue.

Participating candidates must abide by certain expenditure limits, pursuant to s. 106.34, F.S. In 2005, the Legislature increased those expenditure limits (ch. 2005-278, Laws of Fla.) to the following amounts:

Gov./Lt. Gov – Increased from \$5 million to \$2.00 per each Florida-registered voter, or roughly **\$20.5 million**.³

Cabinet Offices – Increased from \$2 million to \$1.00 per each Florida-registered voter, or roughly **\$10.2 million**.

A number of other states have some form of public matching funds program in place, whether it be partial matching from a variety of sources such as legislative funding or taxpayer check-offs, or a "Clean Elections" program, whereby a campaign is fully funded with state funds once he or she has raised sufficient "seed" money.⁴

New Jersey operates a public financing program similar to that of Florida, whereby a gubernatorial candidate must initially raise \$300,000 to qualify. After the candidate qualifies and declares an intent to participate in the program, the candidate receives \$6,000 from the state for every \$3,000 raised from private sources. Participating candidates must also agree to limit their expenditures in the primary and general elections.

Maine has operated a "Clean Elections" program since 2000. Gubernatorial candidates must initially collect 2,500 contributions of \$5 each. After raising the requisite "seed money," a participating candidate could receive up to \$391,623 in state grants for the 2002 primary and general elections combined. State house and senate candidates are also eligible to participate in the program. Once a candidate has raised the requisite "seed money," the candidate is prohibited from receiving additional private funds. Candidates with opposition receive larger state grants than those with no opposition.

According to a May 2007 report by the National Conference of State Legislatures⁵, the following 16 states have some form of public campaign funds program that is available to candidates.

³ As of May 2007, there were 10,251,312 registered voters in the State of Florida.

⁴ The information on other states' programs is taken from the National Conference of State Legislatures web site, <http://www.ncsl.org/programs/legismgt/elect/elect.htm>

⁵ Jennie Drage Bowser, *Public Financing of Election Campaigns: An Overview*, May 2007.

Candidate Public Financing Programs			
State	Candidates Eligible	Type of Program	Full/Partial Funding
Arizona	All statewide offices Legislature	"Clean Elections"	Full
Connecticut ⁶	All statewide offices Legislature	"Clean Elections"	Full
Florida	Governor Cabinet members	Matching grants	Partial
Hawaii	Governor/Lt. Gov. Ofc. Hawaiian Affairs	Matching grants	Partial
Maine	Governor Legislature	"Clean Elections"	Full
Maryland	Governor/Lt. Gov.	Matching grants	Partial
Massachusetts	All statewide offices	Matching grants	Partial
Michigan	Governor	Matching grants & fixed subsidy	Partial
Minnesota	All statewide offices Legislature	Fixed subsidy	Partial
Nebraska ⁷	All statewide offices Legislature	Matching grants	Partial
New Jersey	Governor	Matching grants	Partial
	Select legislative districts	"Clean Elections"	Full
New Mexico	Public Regulation Commission Statewide judicial offices	"Clean Elections"	Full
North Carolina	Judicial offices	"Clean Elections"	Full
Rhode Island	All statewide offices	Matching grants	Partial
Vermont	Governor/Lt. Gov.	"Clean Elections"	Full
Wisconsin	All statewide offices State Supreme Court Legislature	Fixed subsidy	Partial

⁶ Connecticut's program takes effect in 2008 for legislative offices, and 2010 for statewide offices.

⁷ New Jersey has had a "Clean Elections" pilot program for candidates in selected legislative districts since 2005.

HJR 281 must be approved by a 3/5 vote of the membership of each house of the Legislature. If enacted, the proposal will be presented to the electors of Florida at the November 4, 2008, general election. Approval requires a favorable vote from 60 percent or more of the electors in the state.⁸

If approved, HJR 281 would take effect January 8, 2009.

C. SECTION DIRECTORY:

None.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

In excess of \$11 million was doled out in 2006 to participating statewide candidates. In the prior three election cycles (normally every 4 years when the Governor and cabinet offices are up for election), the following amounts were distributed to statewide candidates from the General Revenue fund:

- 1998 - \$4.6 million
- 2000 - \$914,885⁹
- 2002 - \$5.2 million

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

⁸ Art. XI, sec. 5(e), Fla. Const.

⁹ In 2000, a non-gubernatorial election year, the two cabinet offices of State Treasurer and Commissioner of Education were up for election. At the time, Bill Nelson, as the State Treasurer, resigned from that office to run for U.S. Senate. Tom Gallagher, as the Commissioner of Education, ran for the State Treasurer post vacated by Nelson. Charlie Crist then ran for the Commissioner of Education post vacated by Mr. Gallagher. Crist, Gallagher and John Cosgrove received matching funds from the program in the 2000 election in the amounts listed above.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposal is adopted, candidates would no longer be able to depend on matching funds from the program to help fund their statewide campaigns.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

Adoption of HJR 281/HB 277 will provide an opportunity for better utilization of tax dollars. To use public funds to help finance political campaigns prevents the funding of other programs that directly affect the quality of life for Floridians. Passing this resolution will also assist us in these next few years of "tight" budgets. This resolution will enable the Legislature to direct General Revenue dollars to benefit more Floridians.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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House Joint Resolution

A joint resolution proposing the repeal of Section 7 of Article VI of the State Constitution, relating to public financing of campaigns of candidates for elective statewide office who agree to campaign spending limits.

Be It Resolved by the Legislature of the State of Florida:

That the repeal of Section 7 of Article VI of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VI, SECTION 7

REPEAL OF PUBLIC CAMPAIGN FINANCING REQUIREMENT.--Proposing the repeal of the provision in the State Constitution that requires public financing of campaigns of candidates for elective statewide office who agree to campaign spending limits.

