

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 756

SPONSOR: Committee on Ethics and Elections, Senator Saunders and others

SUBJECT: Elections; Nonpartisan School Boards

DATE: February 8, 1999

REVISED: 2/18/99 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bradshaw</u>	<u>Bradshaw</u>	<u>EE</u>	<u>Fav/1 amendment</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 756 implements the amendment to Article IX, Section 4(a), Florida Constitution, which was approved by the voters at the 1998 General Election. This amendment requires all school board members to be elected in nonpartisan elections.

This bill substantially amends ss. 230.10, 105.031, 105.035, 105.041, 105.051, 105.061, 105.08, 99.061, 101.141, 101.151, 101.251, 230.061, 230.105, and 228.053, F.S., and repeals ss. 105.09 and 230.08, F.S.

II. Present Situation:

Effective January 5, 1999, Article IX, Section 4(a), Florida Constitution, requires school board members to be elected in nonpartisan elections. Current *general law* provides for the partisan election of school board members. Several charter counties in Florida provide for nonpartisan school board elections based on their charter or special act.

III. Effect of Proposed Changes:

Senate Bill 756 provides for the nonpartisan election of school board members. Chapter 105, Florida Statutes, currently the chapter providing for the nonpartisan election of judicial officers, is amended to apply to nonpartisan candidates in general. Although most municipal elections are nonpartisan elections, the amended provisions of chapter 105 would apply *only* in the absence of an applicable special act, charter, or ordinance provision. s. 100.3605, F.S.

Under the provisions of SB 756, nonpartisan candidates, including those for the office of school board member, will qualify by paying a qualifying fee of 4 percent of the annual salary of the office sought or by petition signed by 3 percent of the registered voters of the district represented by the office. The current provision requiring judicial candidates who use the petition method to state that paying the filing fee imposes an undue burden on their personal resources or on

resources otherwise available to them is stricken to conform to a court decision declaring that provision unconstitutional. *Grube v. Smith*, Case No. TCA 92-40122-MMP, Order (N. D. Fla., 7/6/93).

Names of qualified candidates will appear on the first primary election ballot. If no candidate receives a majority of the votes in the first primary election, the two candidates with the highest number of votes will have their names printed on the general election ballot.

The bill repeals s. 230.08, F.S., which provides for school board members to be nominated by political parties holding primary elections.

In addition, s. 105.09, F.S., is repealed. This section prohibits the endorsement of judicial candidates by political parties and partisan political organizations and has been ruled unconstitutional by three separate courts. *Concerned Democrats of Florida v. Reno*, 458 F.Supp. 60 (D.C. Fla. 1978); *Pinellas County Republican Executive Committee v. Butterworth and McCabe*, Case No. 98-1570-CI-07 (Florida 6th Judicial Circuit, June 9, 1998); and *Collier County Republican Executive Committee v. Butterworth*, Case No. 97-1283-CA 01 (Florida 20th Judicial Circuit, August 27, 1997). However, a recent circuit court decision has upheld the constitutionality of this provision. *Seminole County Republican Executive Committee v. Butterworth and Wolfinger*, Case No. 98-350-CA-16-K (Florida 18th Judicial Circuit, January 21, 1999).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The political parties will realize a loss from the filing fees and party assessments of school board candidates. The political parties receive the 2 percent party assessment and the 3 percent filing fee from partisan school board candidates. Under the provisions of the bill,

nonpartisan candidates for school board will pay no party assessment and the 3 percent filing fee will be deposited into the general revenue fund of the county.

C. Government Sector Impact:

The general revenue fund of the county will receive the 3 percent filing fees for nonpartisan school board candidates. The amount received will depend upon the salary of the office and the number of candidates who qualify.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Ethics and Elections:

Reinstates s. 105.09, F.S., relating to endorsement of judicial candidates by partisan organizations. (WITH TITLE AMENDMENT)