

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 Governmental Oversight and Accountability Committee

BILL: SB 86

INTRODUCER: Senator Dockery

SUBJECT: Voting Conflicts

DATE: March 26, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Roberts	GO	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	EE	_____
4.	_____	_____	RC	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill prohibits a member of the Legislature from participating in, and/or voting upon, certain legislation. The new provision would also require the member to publicly state to the body or the committee to which the member belongs, prior to consideration of the legislation, the interests which give rise to the voting conflict. The bill would also require disclosure of the specific nature of those interests in a memorandum filed with either the Secretary of the Senate or Clerk of the House of Representatives and placed in the journal of the house of which the legislator is a member.

This bill substantially amends Section 112.3143, Florida Statutes, and creates Section 112.31435, Florida Statutes.

II. Present Situation:

Under Section 112.3143(2), Florida Statutes, no state public officer is prohibited from voting in an official capacity on any matter. However, any state public officer voting in an official capacity upon any measure which would inure to the officer's special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the public officer shall, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting. The law does not prohibit a state public officer from participating in any matter.

Conversely, county, municipal, and other local officers are prohibited from voting on any measure which would inure to his/her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom the officer is retained or to the parent organization or subsidiary of a corporate principal by which the officer is retained, other than an agency; or which the officer knows would inure to the special private gain or loss of a relative or business associate of the officer. In the event of a conflict, the county, municipal, and other local officers are required to publicly state to the assembly the nature of the officer's interests in the matter from which he or she is abstaining prior to the vote being taken.

Additionally, county, municipal, and other local officers are required to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting. Appointed public officers are also prohibited from participating in a matter when the matter would inure to the special private gain or loss of one of the enumerated people unless the appointed public officer first discloses his or her interest in the matter.¹

III. Effect of Proposed Changes:

Senate Bill 86 creates an exception to the general rule in s. 112.3143(2), F.S., that state public officers may vote in an official capacity on any matter. The bill prohibits a member of the Legislature from voting upon or participating² in any legislation that would inure to his or her special private gain or loss or that he or she knows would inure to the special private gain or loss of his or her relative. The bill would also require the member to publicly state to the body or committee to which the member belongs, before any consideration of the legislation, all of his or her interests in the legislation or all of the relative's interests in the legislation which are known to the member. The member must disclose the specific nature of those interests as a public record in a memorandum filed with the Secretary of the Senate or the Clerk of the House of Representatives within 15 days after the date on which a vote on the legislation occurs. The memorandum shall be spread upon the pages of the journal of the house of which the legislator is a member.

Senate Bill 86 also prohibits a member of the Legislature from participating in any legislation that he or she knows would inure to the special private gain or loss of a principal by whom he or she is retained, the parent organization or subsidiary of a corporate principal by which he or she is retained, a business associate, an employer, or a board upon which the member sits. The member is required to publicly state to the body or committee all of the interests of such principals, parent organizations or subsidiaries of a corporate principal, business associates, employers, or board which are known to the member prior to any consideration of the legislation. The member must disclose the specific nature of those interests as a public record in a memorandum filed with the Secretary of the Senate or the Clerk of the House of Representatives within 15 days after the date on which a vote on the legislation occurs. The bill requires that the memorandum shall be spread upon the pages of the journal of the house of which the legislator is a member.

¹ Section 112.3143(4), F.S.

² Under the bill, the term "participate" means any attempt, other than casting a vote, to influence the passage, defeat, or amendment of legislation by oral or written communication made by a legislator or at such legislator's request.

As drafted, the bill could prohibit a member from voting on measures such as the General Appropriations Act if something therein inured to his/her special private gain or loss or if the member knows that it would inure to the special private gain or loss of a relative, a principal by whom the member is retained, the corporate parent organizations or subsidiaries of a corporate principal, business associates, employers, or boards upon which the member sits. The measure could also prohibit a member from voting on matters affecting his or her compensation as a member of the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
