

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 552

INTRODUCER: Senator Dockery and others

SUBJECT: Voting Conflicts

DATE: January 24, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Seay	Roberts	GO	Favorable
2.			JU	
3.			EE	
4.			RC	
5.			BC	
6.				

I. Summary:

This bill prohibits a member of the Legislature from participating in, and/or voting upon, legislation that results in a special private gain or loss. The bill requires the member of the Legislature to publicly state to the body or the committee to which the member belongs, prior to consideration of the legislation, the interests that give rise to the voting conflict. The bill requires 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 and creates Section 112.31435 of the Florida Statutes.

II. Present Situation:

Under Section 112.3143(2), F.S., 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. 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

Violations of the voting conflicts laws are subject to the penalties contained in s. 112.317, F.S. Those penalties range from censure to removal from office and may also include a civil penalty not to exceed \$10,000.

III. Effect of Proposed Changes:

Section 1 amends s. 112.3143, F.S., defining "special private gain or loss" as a gain or loss that inures *only* to the benefit or detriment of a public officer or his or her relative, principal, corporate parent or subsidiary of a corporate principal, or a gain or loss that inures to the benefit or detriment of an enumerated beneficiary differently than the rest of those affected by the matter. This section also 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.

Section 2 creates s. 112.31435, F.S., providing specific definitions for "participate", "relative", and "special private gain or loss" as used in this section; prohibiting a member of the Legislature from participating in or voting on 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; requiring the member to publicly state to the body or committee all of his or her interests in the legislation or all of the relative's interests in the legislation before consideration of the legislation; requiring the member to disclose the specific nature of 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; requiring the member's memorandum to be spread upon the pages of the journal of the house of which the legislator is a member; prohibiting 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; requiring the member to publicly state to the body or committee all of the interests of a corporate principal, business associates, employers, or a board *known* to the member before consideration of the legislation; requiring the member to disclose the specific nature of interests

¹ Section 112.3143(4), F.S.

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; requiring the member's memorandum to be spread upon the pages of the journal of the house of which the legislator is a member; requiring members to vote on the General Appropriations Act and disclose any conflict with a line-item appropriation.

Section 3 provides an effective date of October 1, 2012.

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.
