

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 Committee on Ethics and Elections

BILL: CS/SB 1634

INTRODUCER: Ethics and Elections Committee and Senator Lee

SUBJECT: Legislative Lobbying Expenditures

DATE: April 2, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/CS
2.			JU	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1634 amends the "Legislative Expenditure Ban" in s. 11.045, F.S., by providing that a Legislator or legislative employee may, under certain circumstances, accept:

- Individual servings of nonalcoholic beverages; or,
- An unsolicited meal, beverages, or event or meeting registration fee.

CS/SB 1634 requires that the houses of the Legislature must adopt rules for reporting, within 15 days after attending the scheduled meeting, the following information:

- The date of the event;
- The name of the organization hosting the event;
- The topic or topics about which the member or employee spoke;
- The value of the meal accepted.

Such reporting must be made publicly available on the website of the respective house of the Legislature. Finally, this bill clarifies that the use of a public facility or public property provided from a governmental entity to a legislator for a public purpose is not an expenditure for purposes of the "legislative expenditure ban" in s. 11.045, F.S.

This bill substantially amends s. 11.045, F.S.

II. Present Situation:

Section 11.045, F.S., contains provisions requiring legislative lobbying registration, requiring legislative lobbyist compensation reports, and it contains the “Legislative Expenditure Ban.” Specifically, s. 11.045(4)(a), F.S., prohibits a lobbyist from making, and a legislator or legislative employee from knowingly accepting, directly or indirectly any expenditure.¹

For purposes of this statute, the term “expenditure” means:

A payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term does not include contributions or expenditures reported pursuant to chapter 106 or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).²

The following penalties can be imposed for violation of the “Legislative Expenditure Ban:”

- A fine of not more than \$5,000;
- Reprimand;
- Censure;
- Probation; and/or
- Prohibition on lobbying for a period not to exceed 24 months.³

III. Effect of Proposed Changes:

CS/SB 1634 allows a member or employee of the Legislature to accept individual servings of nonalcoholic beverages provided by a lobbyist or a principal as a courtesy to attendees of a meeting.

The bill also allows a member or employee of the Legislature who is attending a scheduled meeting of an established membership organization that is a principal of a lobbyist as a featured speaker, moderator, or participant of a panel discussion, to accept a meal, beverages, or event or meeting registration fee if they were not solicited by the member or employee. For purposes of this exemption, the established membership organization cannot have a membership that is primarily composed of lobbyists. If a member or employee accepts a meal, beverages, or event or meeting registration fee at such an event, he or she must file a report with the Secretary of the Senate or the Clerk of the House of Representatives within 15 days after attending the meeting. The report must contain, at a minimum, the date of the event, the name of the organization

¹ Section 11.045(4)(a), F.S., currently only exempts “floral arrangements or other celebratory items given to legislators and displayed in chambers the opening day of session.”

² § 11.045(1)(c), F.S.

³ § 11.045(7), F.S.

hosting the event, the topic or topics about which the member or employee spoke, and the value of the meal accepted. The bill clarifies that this report also satisfies the reporting requirement of s. 112.3149(6), F.S., concerning expenses related to the honorarium event. Each house of the Legislature must establish rules for such reporting and provide for publication on its website.

CS/SB 1634 creates a new exemption from the definition of “expenditure” for a “government-to-government use.” A “government-to-government use” is the “use of a public facility or public property that is made available by one governmental entity to a legislator for a public purpose, regardless of whether either is required to register any person as a lobbyist.”

Finally, the bill provides that the changes made to s. 11.045(4), F.S., will expire on June 30, 2015, and the law will revert to the statutory language in effect on April 7, 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:

The “old” gifts law in Section 112.3148, F.S., which predates the “Legislative Expenditure Ban,” prohibits certain gifts in excess of \$100 to reporting individuals (anyone required to file financial

disclosure, including legislators) and procurement employees. Section 112.3148, F.S., exempts gifts given by a state, county, and municipal governments (and certain other governmental organizations) valued at more than \$100 if a public purpose can be shown. Current law requires annual disclosure of such gifts on a CE Form 10. Because both s. 11.045, F.S., and s. 112.3148, F.S., apply to members of the Legislature, it is important to note that, if a member or employee were to accept use of a public facility or public property from a governmental entity as authorized by the bill, the member or employee would be required to disclose the gift on a CE Form 10.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Ethics and Elections on April 1, 2013:

The CS differs from the original bill in that it removes the provisions relating to "widely attended events;" the process for approval of "widely attended events;" and the reporting requirements associated with "widely attended events." It also clarifies that the membership of an established membership organization cannot be composed primarily of lobbyists. The CS also requires specific items to be reported when a member or employee attends a scheduled meeting of an established membership organization. Finally, it also permits a governmental entity to provide use of a public facility or public property to a legislator for a public purpose, regardless of whether the governmental entity is required to register any person as a lobbyist.

- B. **Amendments:**

None.