



680374

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: WD/2R

.

03/08/2016 10:24 AM

.

.

Senator Clemens moved the following:

Senate Amendment (with title amendment)

Before line 36

insert:

Section 1. Subsection (1), paragraph (a) of subsection (2), paragraph (a) of subsection (3), and subsection (4) of section 112.3143, Florida Statutes, are amended to read:

112.3143 Voting conflicts.—

(1) As used in this section:

(a) "Principal by whom retained" means an individual or entity, other than an agency as defined in s. 112.312(2), that



680374

12 for compensation, salary, pay, consideration, or similar thing
13 of value, has permitted or directed another to act for the
14 individual or entity, and includes, but is not limited to, one's
15 client, employer, or the parent, subsidiary, or sibling
16 organization of one's client or employer.

17 (b) "Public officer" includes any person elected or
18 appointed to hold office in any agency, including any person
19 serving on an advisory body.

20 (c) "Relative" means any father, mother, son, daughter,
21 husband, wife, brother, sister, father-in-law, mother-in-law,
22 son-in-law, or daughter-in-law.

23 ~~(d) "Special private gain or loss" means an economic~~
24 ~~benefit or harm that would inure to the officer, his or her~~
25 ~~relative, business associate, or principal, unless the measure~~
26 ~~affects a class that includes the officer, his or her relative,~~
27 ~~business associate, or principal, in which case, at least the~~
28 ~~following factors must be considered when determining whether a~~
29 ~~special private gain or loss exists:~~

30 ~~1. The size of the class affected by the vote.~~

31 ~~2. The nature of the interests involved.~~

32 ~~3. The degree to which the interests of all members of the~~
33 ~~class are affected by the vote.~~

34 ~~4. The degree to which the officer, his or her relative,~~
35 ~~business associate, or principal receives a greater benefit or~~
36 ~~harm when compared to other members of the class.~~

37
38 ~~The degree to which there is uncertainty at the time of the vote~~
39 ~~as to whether there would be any economic benefit or harm to the~~
40 ~~public officer, his or her relative, business associate, or~~



680374

41 ~~principal and, if so, the nature or degree of the economic~~
42 ~~benefit or harm must also be considered.~~

43 (2) (a) A state public officer may not vote on any matter
44 that the officer knows would inure to his or her ~~special private~~
45 gain or loss. However, a state public officer is not prohibited
46 from voting on a matter if the matter would result in an
47 economic benefit or harm to the public generally or a broad
48 segment of the public. Any state public officer who abstains
49 from voting in an official capacity upon any measure that the
50 officer knows would inure to any ~~the officer's special private~~
51 gain or loss of the officer, or who votes in an official
52 capacity on a measure that he or she knows would inure to any
53 ~~the special private~~ gain or loss of any principal by whom the
54 officer is retained or to the parent organization or subsidiary
55 of a corporate principal by which the officer is retained other
56 than an agency as defined in s. 112.312(2); or which the officer
57 knows would inure to any ~~the special private~~ gain or loss of a
58 relative or business associate of the public officer, shall make
59 every reasonable effort to disclose the nature of his or her
60 interest as a public record in a memorandum filed with the
61 person responsible for recording the minutes of the meeting, who
62 shall incorporate the memorandum in the minutes. If it is not
63 possible for the state public officer to file a memorandum
64 before the vote, the memorandum must be filed with the person
65 responsible for recording the minutes of the meeting no later
66 than 15 days after the vote.

67 (3) (a) A ~~No~~ county, municipal, or other local public
68 officer may not ~~shall~~ vote in an official capacity upon any
69 measure which would inure to his or her ~~special private~~ gain or



680374

70 loss; which he or she knows would inure to any ~~the special~~
71 ~~private~~ gain or loss of any principal by whom he or she is
72 retained or to the parent organization or subsidiary of a
73 corporate principal by which he or she is retained, other than
74 an agency as defined in s. 112.312(2); or which he or she knows
75 would inure to any ~~the special private~~ gain or loss of a
76 relative or business associate of the public officer. Such
77 public officer shall, before ~~prior to~~ the vote being taken,
78 publicly state to the assembly the nature of the officer's
79 interest in the matter from which he or she is abstaining from
80 voting and, within 15 days after the vote occurs, disclose the
81 nature of his or her interest as a public record in a memorandum
82 filed with the person responsible for recording the minutes of
83 the meeting, who shall incorporate the memorandum in the
84 minutes. However, a county, municipal, or other local public
85 officer is not prohibited from voting on a matter if the matter
86 would result in an economic benefit or harm to the public
87 generally or a broad segment of the public.

88 (4) An ~~No~~ appointed public officer may not ~~shall~~
89 participate in any matter which would inure to any ~~the officer's~~
90 ~~special private~~ gain or loss of the officer; which the officer
91 knows would inure to any ~~the special private~~ gain or loss of any
92 principal by whom he or she is retained or to the parent
93 organization or subsidiary of a corporate principal by which he
94 or she is retained; or which he or she knows would inure to any
95 ~~the special private~~ gain or loss of a relative or business
96 associate of the public officer, without first disclosing the
97 nature of his or her interest in the matter.

98 (a) Such disclosure, indicating the nature of the conflict,



680374

99 shall be made in a written memorandum filed with the person
100 responsible for recording the minutes of the meeting, before
101 ~~prior to~~ the meeting in which consideration of the matter will
102 take place, and shall be incorporated into the minutes. Any such
103 memorandum shall become a public record upon filing, shall
104 immediately be provided to the other members of the agency, and
105 shall be read publicly at the next meeting held subsequent to
106 the filing of this written memorandum.

107 (b) In the event that disclosure has not been made before
108 ~~prior to~~ the meeting or that any conflict is unknown before
109 ~~prior to~~ the meeting, the disclosure shall be made orally at the
110 meeting when it becomes known that a conflict exists. A written
111 memorandum disclosing the nature of the conflict shall then be
112 filed within 15 days after the oral disclosure with the person
113 responsible for recording the minutes of the meeting and shall
114 be incorporated into the minutes of the meeting at which the
115 oral disclosure was made. Any such memorandum shall become a
116 public record upon filing, shall immediately be provided to the
117 other members of the agency, and shall be read publicly at the
118 next meeting held subsequent to the filing of this written
119 memorandum.

120 (c) For purposes of this subsection, the term "participate"
121 means any attempt to influence the decision by oral or written
122 communication, whether made by the officer or at the officer's
123 direction.

124 Section 2. Paragraph (a) of subsection (7) and paragraph
125 (e) of subsection (11) of section 155.40, Florida Statutes, are
126 amended to read:

127 155.40 Sale or lease of county, district, or municipal



680374

128 hospital; effect of sale.—

129 (7) A determination by the governing board to accept a
130 proposal for sale or lease shall be made after consideration of
131 all proposals received and negotiations with a qualified
132 purchaser or lessee. The governing board's determination must
133 include, in writing, detailed findings of all reasons for
134 accepting the proposal.

135 (a) The governing board's acceptance of a proposal for sale
136 or lease must include a description of how the sale or lease
137 satisfies each of the following requirements:

138 1. The sale or lease represents fair market value, as
139 determined by a certified public accounting firm or other
140 qualified firm pursuant to subsection (5). If leased at less
141 than fair market value, the governing board shall provide a
142 detailed explanation of how the best interests of the affected
143 community are served by the acceptance of less than fair market
144 value for the lease of the hospital.

145 2. Acceptance of the proposal will result in a reduction or
146 elimination of ad valorem or other taxes for taxpayers in the
147 district, if applicable.

148 3. The proposal includes an enforceable commitment that
149 programs and services and quality health care will continue to
150 be provided to all residents of the affected community,
151 particularly to the indigent, the uninsured, and the
152 underinsured.

153 4. Disclosure has been made of all conflicts of interest,
154 including, but not limited to, whether the sale or lease of the
155 hospital or health care system would result in any ~~a special~~
156 ~~private~~ gain or loss to members of the governing board or key



680374

157 management employees or members of the medical staff of the
158 county, district, or municipal hospital, or if governing board
159 members will be serving on the board of any successor private
160 corporation. Conflicts of interest, if any, with respect to
161 experts retained by the governing board shall also be disclosed.

162 5. Disclosure has been made by the seller or lessor of all
163 contracts with physicians or other entities providing health
164 care services through a contract with the seller or lessor,
165 including all agreements or contracts that would be void or
166 voidable upon the consummation of the sale or lease.

167 6. The proposal is in compliance with subsections (8) and
168 (9).

169 (11) Within 30 days after receiving the petition, the
170 Secretary of Health Care Administration or his or her designee
171 shall issue a final order approving or denying the proposed
172 transaction based solely upon consideration of whether the
173 procedures contained within this section have been followed by
174 the governing board of the county, district, or municipal
175 hospital or health care system. The order shall require the
176 governing board to accept or reject the proposal for the sale or
177 lease of the county, district, or municipal hospital or health
178 care system based upon a determination that:

179 (e) Any conflict of interest was disclosed, including, but
180 not limited to, how the proposed transaction could result in any
181 ~~a special private~~ gain or loss to members of the governing board
182 or key management employees of the county, district, or
183 municipal hospital, or if governing board members will be
184 serving on the board of any successor private corporation.
185 Conflicts of interest, if any, with respect to experts retained



680374

186 by the governing board shall also be disclosed.

187 Section 3. Paragraph (c) of subsection (1) of section
188 310.151, Florida Statutes, is amended to read:

189 310.151 Rates of pilotage; Pilotage Rate Review Committee.-
190 (1)

191 (c) Committee members shall comply with the disclosure
192 requirements of s. 112.3143(4) if participating in any matter
193 that would result in any ~~special-private~~ gain or loss as
194 described in that subsection.

195 Section 4. Subsection (6) of section 553.77, Florida
196 Statutes, is amended to read:

197 553.77 Specific powers of the commission.-

198 (6) A member of the Florida Building Commission may abstain
199 from voting in any matter before the commission which would
200 inure to any ~~the commissioner's special-private~~ gain or loss of
201 the commissioner, which the commissioner knows would inure to
202 any ~~the special-private~~ gain or loss of any principal by whom he
203 or she is retained or to the parent organization or subsidiary
204 of a corporate principal by which he or she is retained, or
205 which he or she knows would inure to any ~~the special-private~~
206 gain or loss of a relative or business associate of the
207 commissioner. A commissioner shall abstain from voting under the
208 foregoing circumstances if the matter is before the commission
209 under ss. 120.569, 120.60, and 120.80. The commissioner shall,
210 before the vote is taken, publicly state to the assembly the
211 nature of the commissioner's interest in the matter from which
212 he or she is abstaining from voting and, within 15 days after
213 the vote occurs, disclose the nature of his or her other
214 interest as a public record in a memorandum filed with the



680374

215 person responsible for recording the minutes of the meeting, who
216 shall incorporate the memorandum in the minutes.

217 Section 5. Paragraph (d) of subsection (6) of section
218 627.351, Florida Statutes, is amended to read:

219 627.351 Insurance risk apportionment plans.—

220 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

221 (d)1. All prospective employees for senior management
222 positions, as defined by the plan of operation, are subject to
223 background checks as a prerequisite for employment. The office
224 shall conduct the background checks pursuant to ss. 624.34,
225 624.404(3), and 628.261.

226 2. On or before July 1 of each year, employees of the
227 corporation must sign and submit a statement attesting that they
228 do not have a conflict of interest, as defined in part III of
229 chapter 112. As a condition of employment, all prospective
230 employees must sign and submit to the corporation a conflict-of-
231 interest statement.

232 3. The executive director, senior managers, and members of
233 the board of governors are subject to part III of chapter 112,
234 including, but not limited to, the code of ethics and public
235 disclosure and reporting of financial interests, pursuant to s.
236 112.3145. For purposes of applying part III of chapter 112 to
237 activities of the executive director, senior managers, and
238 members of the board of governors, those persons shall be
239 considered public officers or employees and the corporation
240 shall be considered their agency. Notwithstanding s.

241 112.3143(2), a board member may not vote on any measure that
242 would inure to any ~~his or her special private~~ gain or loss of
243 the board member; that he or she knows would inure to any ~~the~~



680374

244 ~~special-private~~ gain or loss of any principal by whom he or she
245 is retained or to the parent organization or subsidiary of a
246 corporate principal by which he or she is retained, other than
247 an agency as defined in s. 112.312; or that he or she knows
248 would inure to any ~~the special-private~~ gain or loss of a
249 relative or business associate of the public officer. Before the
250 vote is taken, such member shall publicly state to the assembly
251 the nature of his or her interest in the matter from which he or
252 she is abstaining from voting and, within 15 days after the vote
253 occurs, disclose the nature of his or her interest as a public
254 record in a memorandum filed with the person responsible for
255 recording the minutes of the meeting, who shall incorporate the
256 memorandum in the minutes. Senior managers and board members are
257 also required to file such disclosures with the Commission on
258 Ethics and the Office of Insurance Regulation. The executive
259 director of the corporation or his or her designee shall notify
260 each existing and newly appointed member of the board of
261 governors and senior managers of their duty to comply with the
262 reporting requirements of part III of chapter 112. At least
263 quarterly, the executive director or his or her designee shall
264 submit to the Commission on Ethics a list of names of the senior
265 managers and members of the board of governors who are subject
266 to the public disclosure requirements under s. 112.3145.

267 4. Notwithstanding s. 112.3148, s. 112.3149, or any other
268 provision of law, an employee or board member may not knowingly
269 accept, directly or indirectly, any gift or expenditure from a
270 person or entity, or an employee or representative of such
271 person or entity, which has a contractual relationship with the
272 corporation or who is under consideration for a contract. An



680374

273 employee or board member who fails to comply with subparagraph
274 3. or this subparagraph is subject to penalties provided under
275 ss. 112.317 and 112.3173.

276 5. Any senior manager of the corporation who is employed on
277 or after January 1, 2007, regardless of the date of hire, who
278 subsequently retires or terminates employment is prohibited from
279 representing another person or entity before the corporation for
280 2 years after retirement or termination of employment from the
281 corporation.

282 6. The executive director, members of the board of
283 governors, and senior managers of the corporation are prohibited
284 from having any employment or contractual relationship for 2
285 years after retirement from or termination of service to the
286 corporation with an insurer that has entered into a take-out
287 bonus agreement with the corporation.

288
289 ===== T I T L E A M E N D M E N T =====

290 And the title is amended as follows:

291 Between lines 2 and 3

292 insert:

293 112.3143, F.S.; deleting the definition of the term
294 "special private gain or loss"; prohibiting a public
295 officer from voting on a measure that would inure to
296 any gain or loss, rather than a special private gain
297 or loss, of the officer, or a principal, relative, or
298 business associate of the officer; prohibiting an
299 appointed public officer from participating in any
300 manner that would inure to any gain or loss, rather
301 than a special private gain or loss, of the officer,



680374

302 or a principal, relative, or business associate of the
303 officer, without requisite disclosure; amending ss.
304 155.40, 310.151, 553.77, and 627.351, F.S.; revising
305 terminology to conform to the deletion of the term
306 "special private gain or loss"; amending s.