

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: SB 1180

INTRODUCER: Senator Steube

SUBJECT: County and Municipal Public Officers and Employees

DATE: February 9, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Ulrich	EE	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 1180 requires county and municipal officers who are running for reelection, or for a new office, to provide their campaign and political committee contribution and expenditure reports to their county or municipality for posting on its website.

The bill also requires travel by county and municipal officers outside of the state to be approved by the governing body at a publicly noticed meeting. The public must have an opportunity to speak at the meeting. The agenda must contain all travel expense details and be approved by a majority of the members present and voting. Permissible travel expenses include those incurred in the 24 hours preceding and the 24 hours after the end of the event to which the officer is traveling. The bill prohibits foreign travel expense reimbursement for county and municipal officers and employees. The bill also caps lodging expenses at \$120 per day, but allows for county and municipal officers to stay in accommodations that are more expensive if they pay the difference between the cap and the actual cost. The bill requires county and municipal officers to report reimbursable expenses to the local ethics commission, or if there is not one, the Florida Commission on Ethics. This report is required to state the purpose, justify the necessity of the trip, and provide proof of the incurred expenses.

The bill also requires all municipal officers that hold an elective office to file the more detailed form of financial disclosure, known as the full and public disclosure of their financial interests, annually. Those individuals will also be required to file a full and public disclosure of their financial interests as part of their qualifying papers.

The enhanced financial disclosure requirement is effective January 1, 2019; the rest of the bill is effective July 1, 2018.

II. Present Situation:

Campaign and Political Committee Contribution and Expenditure Reports

Campaign treasurers are required to file regular reports of all contributions received and all expenditures made by or on behalf of the campaign or political committee.¹ Those campaign finance reports are filed with the officer before whom the candidate qualifies. Contribution and expenditure reports for county and municipal officers are required to be filed on the following schedule:

- Monthly reports until the 60th day before the primary (7 days after qualifying ends in June for most non-federal candidates); and,
- Bi-weekly reports every other Friday beginning on the 60th day before the primary through the Friday (4th day) before the general election, with an additional report due on the 25th and 11th days before the primary and general election.

The reports may be made by mailing them to the qualifying officer or, if the county or municipality has created an electronic filing system, electronically.

Per Diem and Travel Expenses

The Legislature has largely preempted the area of law addressing per diem and travel expenses.² Section 112.061, F.S., establishes the authority to incur travel expenses, and conditions and limitations thereon, reimbursement rates for time spent traveling, per diem and subsistence rates, transportation costs, and certain other authorized expenses. The statute also requires an authorization form and voucher forms. Currently, there are no statutory restrictions on reimbursement of out of state or foreign per diem and travel expenses. There is no requirement that travel or per diem and travel expenses be approved by the whole governing body at a meeting. A county or municipal officer need only file the appropriate forms in order to be reimbursed.

Lodging expenses are reimbursable on an actual cost basis. The rate of reimbursement is the single occupancy rate of the lodging.³ There is no requirement that a county or municipal officer's per diem and travel expenses be reported.

Elected Municipal Financial Disclosure Requirement

Specified public officers and employees are subject to annual financial disclosure. Candidates for public office are also required to file financial disclosure with their qualifying papers.⁴ There are two levels of financial disclosure: the full and public disclosure of financial interests ("CE Form 6"), and the less-detailed statement of financial interests ("CE Form 1"). Florida's constitutional

¹ Section 106.07(1), F.S.

² This limited preemption applies to the extent that there is no specific exemption in general law, special act, or local law. If there is a conflict between s. 112.061, F.S., and a specific exemption in general law, special act, or local law, then the exemption prevails to the extent of the conflict. *See*, s. 112.061(1)(b), F.S.

³ Section 106.07(6)(a)2., F.S.

⁴ *See*, s. 99.061, F.S. The candidate files the type of financial disclosure that is required annually of the office that he or she seeks. For example, if the office requires a Form 1 annually, the candidate files a Form 1 with their qualifying papers.

officers are required to file a CE Form 6.⁵ The content of the full and public disclosure required is prescribed in s. 112.3144, F.S.⁶

By statute, the Legislature has required certain public officers and employees to file CE Form 1 annually.⁷ Elected municipal officers are currently subject to the CE Form 1 disclosure requirement.⁸ Elected municipal officers file their annual CE Form 1 with the Supervisor of Elections in their county.⁹ Financial disclosures are due by July 1 of each year. Candidates for elected municipal office also file a CE Form 1 with their qualifying papers. The following table compares the financial information that is required to be disclosed by a filer on each form.

CE Form 1 Required Information¹⁰	CE Form 6 Required Information
Primary Sources of Income (Excludes income from public position; amount not required)	Net Worth (Calculated using reported assets minus reported liabilities)
Secondary Sources of Income (Income paid to a business entity which the filer owns; amount not required)	All Assets Worth More than \$1,000 (Allowed to aggregate household goods and personal effects into one lump sum)
Location or Description of Real Property ¹¹ (Other than residence, value not required)	Personal Liabilities in Excess of \$1,000
Intangible Personal Property (Stocks, savings accounts, bonds, etc.; amount not required)	Joint and Several Liabilities Not Already Disclosed (I.e., a debt of one's business) or (A business debt)
Liabilities in Excess of \$10,000 (Personal, joint, and joint and several liabilities; does not include credit cards, retail installment accounts, etc.; amount not required)	Income (By either disclosing primary and secondary income in excess of \$1,000, including sources and amounts, on the form; or by attaching your federal tax return and all schedules, W2s, and attachments)
Interests in Specified Businesses (Amount not required)	Interests in Specified Businesses (Amount not required)

⁵ See, Art. II, s. 8(a), Fla. Const., and s. 112.3144, F.S. Additionally, the Legislature has required other officers to file this form of financial disclosure in their enabling legislation.

⁶ See, Section 112.3144, F.S., and Rule 34-8.002, F.A.C. For an example, this year's CE Form 6 may be viewed at: http://ethics.state.fl.us/Documents/Forms/Form%206_2017i.pdf?cp=201829. (Last accessed February 9, 2018.)

⁷ See, Section 112.3145(2), F.S., and Rule 34-8.202, F.A.C. For an example, this year's CE Form 1 may be viewed at: http://ethics.state.fl.us/Documents/Forms/Form%201_2017i.pdf?cp=201829. (Last accessed February 9, 2018.)

⁸ Section 112.3145(1)(a)1., F.S. This requirement, which is the same requirement that legislative staff must comply with, is less detailed than the one imposed upon Florida's constitutional officers. The form filed by those officers, the CE Form 6, provides a much more complete picture of an officer's financial interests; thereby enabling the public to better discern potential conflicts of interest.

⁹ Section 112.3145(2)(c), F.S.

¹⁰ The filer can choose one of two reporting methods for information other than liabilities and real property: 1) using a specified dollar value threshold, or 2) using a comparative (percentage) threshold.

¹¹ This is required only if the filer owns more than 5% of the property value or owns 5% of a business entity or interest in a trust that owns the property.

III. Effect of Proposed Changes:

Campaign and Political Committee Contribution and Expenditure Reports

SB 1180 requires that elected county or municipal officers provide a copy of contribution and expenditure reports, from his or her campaign or from a political committee he or she controls, to his or her county or municipality for posting on its website.

Per Diem and Travel Expenses

The bill requires county or municipal public officers seeking authorization to travel outside of the state to have the travel approved by his or her governing body at a publicly noticed meeting. The bill requires that the agenda include an itemized list of anticipated per diem and travel expenses. The public must have an opportunity for comment before the vote to authorize the travel is taken. Travel outside of the state must be approved by a majority vote of those members present and voting at the meeting.

Travel expenses for out of state travel for county and municipal officers may only include those expenses necessarily incurred by the officer beginning 24 hours before the start of the event and ending 24 hours after the end of the out of state event. The bill caps all reimbursable lodging costs for county and municipal officers at \$120 per day. A county or municipal officer may stay in lodging that is more expensive; however, he or she will have to pay any difference between the actual cost and the \$120 cap imposed by the bill. County and municipal officers that are paid with or reimbursed from taxpayer funds must report the travel expenses to a Commission on Ethics and Public Trust of the county or municipality.¹² If the county or municipality does not have such a commission, then the county or municipal officer must report such expenses to the Florida Commission on Ethics. The report is required to state the purpose of the travel and provide proof of incurred expenses.

The bill prohibits reimbursement of travel expenses for foreign travel incurred by county and municipal officers.

Elected Municipal Financial Disclosure Requirement

Beginning January 1, 2019, elected municipal officers will be subject to the CE Form 6 requirement in s. 112.3144, F.S. The first CE Form 6 that elected municipal officers will be required to file will be due on July 1, 2019. Anyone seeking to qualify for elective municipal office after January 1, 2019, will be required to file a CE Form 6 with his or her qualifying papers; and file a CE Form 6 annually thereafter, if elected.¹³

¹² As drafted, this provision would apply to all travel expenses, regardless of whether the destination is inside or outside the state.

¹³ This requirement is sought by the Florida Commission on Ethics in their Annual Report to the Legislature for Calendar Year 2017. That report can be accessed at: <http://ethics.state.fl.us/Documents/Publications/2017%20Annual%20Report.pdf?cp=201829>. Other bills filed for the 2018 session contemplate a scheme that is subject to change under certain conditions. However, the Commission is opposed to adopting a fluctuating financial disclosure requirement.

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:

Indeterminate.

C. Government Sector Impact:

In its current form, the bill requires the Florida Commission on Ethics to receive travel expense reports from any county or municipality that does not have its own ethics commission. Currently, there are only a handful of county or municipal ethics commissions. Since the state has 67 counties and over 400 cities, it is anticipated that the Commission would be receiving nearly all of the travel expense reports required under the bill. In addition to the demands on staff time, this could require the Commission to obtain storage space or create an electronic mode of receiving and compiling such reports. The fiscal impact necessitated by this change is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 99.061, 106.07, 112.061, 112.3144, and 112.3145.

IX. Additional Information:

A. Committee Substitute – Statement of 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.
