

STORAGE NAME: h3861a.go
DATE: March 17, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3861
RELATING TO: Public Officers & Employee/Gifts
SPONSOR(S): Representative Arnold
COMPANION BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS YEAS 4 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS
- (3)
- (4)
- (5)

I. SUMMARY:

HB 3861 amends s. 112.3148, F.S., regarding reporting of, and prohibited receipt of, gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees. More particularly, subsections (6)(a) and (b), regarding the giving of and receipt of gifts having a value in excess of \$100, is amended to require that the gift is for the benefit of the governmental entity and not for the individual recipient's personal benefit, or for the personal benefit of any member of his or her family.

Subsections (6)(c) and (b) provide certain reporting requirements and are amended to add that the reports must include the purpose for which the gift was given.

This bill does not appear to have a fiscal impact on state or local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Article II, s. 8 of the Florida Constitution requires that the following persons file full and public disclosure of their financial interests: all elected constitutional officers and candidates for such offices; and, "as may be determined by law, other public officers, candidates, and employees".

Section 112.3145(2), F.S., provides in pertinent part:

- (a) A person seeking nomination or election to a state or local elective office shall file a statement of financial interests together with, and at the same time he or she files, qualifying papers.
- (b) Each state or local officer and each specified state employee shall file a statement of financial interests
- (c) State officers, persons qualifying for a state office, and specified state employees shall file their statements of financial interests with the Secretary of State.....

Section 112.3148, F.S., deals with the reporting of and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests (pursuant to s. 112.3145, F.S.) and by procurement employees. Section 112.3148, F.S., defines "reporting individual" to mean

any individual who is required by law, pursuant to s. 8, Art. II of the State Constitution or s. 112.3145, to file full or limited public disclosure of his or her financial interests.

"Procurement employee" means

any employee of an officer, department, board, commission, or council of the executive branch or judicial branch of state government who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, if the cost of such services or commodities exceeds \$1,000 in any year.

Subsection (3) of s. 112.3148, F.S., prohibits a reporting individual or procurement employee from soliciting any gift from certain specified persons/entities, "where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family¹ of a reporting individual or procurement employee."

Subsection (4) of s. 112.3148, F.S., provides that a reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly

¹ "Immediate family" means any parent, spouse, child, or sibling.

accepting, directly or indirectly, a gift from certain specified persons/entities if he or she knows or reasonably believes that the gift has a value in excess of \$100. However, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift must not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

Subsection (5) of s. 112.3148, F.S., in pertinent part, prohibits certain persons/entities from giving, either directly or indirectly, a gift that has a value in excess of \$100 to a reporting individual or procurement employee or any other person on his or her behalf unless the gift is intended to be transferred to a governmental entity or a charitable organization.

Subsection (6)(a) of s. 112.3148, F.S., provides that, notwithstanding subsection (5), an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, Tri-County Commuter Rail Authority, a county, a municipality, an airport authority, or a school board may give, either directly or indirectly, a gift having a value in excess of \$100 to any reporting individual or procurement employee if a public purpose can be shown for the gift. Also, a direct-support organization specifically authorized by law to support a governmental entity may give such a gift to a reporting individual or procurement employee who is an officer or employee of such governmental entity.

Subsection (6)(b) authorizes a reporting individual or procurement employee to accept a subsection (6)(a) gift.

Subsection (6)(c) requires that no later than March 1 of each year, each governmental entity or direct-support organization specifically authorized by law to support a governmental entity which has given a gift to a reporting individual or procurement employee in excess of \$100 must provide the recipient with a statement regarding same with regard to the preceding calendar year. Such report must contain a description of each gift, the date on which the gift was given, and the value of the total gifts given by the governmental entity or direct-support organization to the reporting individual or procurement employee during the calendar year for which the report is made.

Subsection (6)(d) provides that no later than July 1 of each year, each reporting individual or procurement employee shall file a statement listing each gift received from a governmental entity or a direct-support organization having a value in excess of \$100. The statement must list the name of the person providing the gift, a description of the gift, the date or dates on which the gift was given, and the value of the total gifts given during the calendar year for which the report is made.

B. EFFECT OF PROPOSED CHANGES:

This bill amends subsection (6)(a) to add the requirement that any gift having a value in excess of \$100 "is for the benefit of such governmental entity and not for the personal benefit of such officer or employee or of any member of the immediate family of such officer or employee." Subsection (6)(b) is amended to add that a gift having a value in excess of \$100 can be accepted "provided the gift is for the benefit of such

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governmental entity and not for his or her own personal benefit or the personal benefit of any member of his or her immediate family.”

This bill also amends subsections 6(c) and (d) requiring that the reports filed thereunder must state the purpose for which the gift was given.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

An agency or program is not eliminated or reduced.

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No

- b. Does the bill require or authorize an increase in any fees?

No

- c. Does the bill reduce total taxes, both rates and revenues?

No

- d. Does the bill reduce total fees, both rates and revenues?

No

- e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

This bill does not purport to provide services to families or children.

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

This bill does not create or change a program providing services to families or children.

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

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(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

s. 112.3148

E. SECTION-BY-SECTION RESEARCH:

See "Effect of Proposed Changes"

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

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C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce revenue raising authority.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

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VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

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