

STORAGE NAME: h1769.sa.doc
DATE: April 3, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1769
RELATING TO: Lobbying
SPONSOR(S): Representative(s) Melvin

TIED BILL(S):

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

- (1) STATE ADMINISTRATION
 - (2) COUNCIL FOR SMARTER GOVERNMENT
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Current law allows any person employed by any executive, judicial, or quasi-judicial department of the state, or community college of the state, to register with the joint legislative office as a lobbyist and represent such entity before the Legislature or any legislative committee.

Current law provides that no additional funds - excluding salaries, travel expenses, and per diem - appropriated to any executive, judicial, or quasi-judicial department, may be used by any state employee or other person for lobbying purposes. Current law does provide for penalties of any violations of these provisions.

Current law provides that a department of the executive branch, a state university, a community college, or a water management district may not use public funds to retain a lobbyist for representation before the legislative or executive branch.

HB 1769 does not allow an agency of the judicial branch from retaining a lobbyist and using funds for lobbying purposes. HB 1769 provides that an agency of the judicial branch may retain a lobbyist for the purpose of representing such agency before the executive or legislative branch of the Federal Government.

HB 1769 removes the word "public" from the expression "public funds" to disallow any funds to be used for lobbying purposes that violate these provisions.

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

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 11.061, F.S., allows any person employed by any executive, judicial, or quasi-judicial department of the state or community college of the state who seeks to encourage the passage, defeat, or modification of any legislation by personal appearance or attendance before the House of Representatives, the Senate, or any legislative committee, to register as a lobbyist¹ with the joint legislative office.² Any state employee who violates any provision of this section by not registering with the joint legislative office as a lobbyist or by failing to record hours spent as a lobbyist during the established business hours of the agency employing the person must have deducted from his or her salary an amount equivalent to his or her hourly wage times the number of hours that he or she was in violation of this section.

Section 11.061(2)(b), F.S., states that any person who appears before a committee or subcommittee of the House of Representatives or the Senate at the request of the committee or subcommittee chair as a witness or for informational purposes is exempt from these provisions.

Section 11.062(1), F.S., provides that no funds, exclusive of salaries, travel expenses, and per diem, appropriated to any executive, judicial, or quasi-judicial department can be used by any state employee or other person for lobbying purposes. This includes the cost for publication and distribution of each publication used in lobbying, and other printing, media, advertising, entertainment, and telephone expenses. Any state employee who violates the provisions of this section will have deducted from his or her salary the amount of state moneys spent in violation of this section.

Section 11.062(2)(a), F.S., states that a department of the executive branch, a state university, a community college, or a water management district may not use public funds to retain a lobbyist to represent it before the legislative or executive branch. However, full-time employees of a department of the executive branch, a state university, a community college, or a water

¹ Section 11.045, F.S., defines a lobbyist as "a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity."

² Joint Rule One of the Lobbyist Registration and Reporting Section states: "(1) All lobbyists before the Florida Legislature must register with the Lobbyist Registration Office in the Division of Legislative Information Services of the Office of Legislative Services." Found in the Florida Legislature's Guide to Lobbyist Registration and Reporting, retrieved on-line at www.leg.state.fl.us/data/lobbyist/Guide/Guide_Leg_2001.pdf

management district may register as lobbyists and represent that employer before the legislative or executive branch. Except as a full-time employee, a person may not accept any public funds from a department of the executive branch, a state university, a community college, or a water management district for lobbying. Any department that violates this provision may be prohibited from lobbying the legislative or executive branch for a period not exceeding two years.

Section 11.062(2)(c), F.S., provides that a department of the executive branch, a state university, a community college, or a water management district may retain a lobbyist for the purpose of representing the entity before the executive or legislative branch of the Federal Government.

In 1949, the Florida Bar was integrated with the Supreme Court.³ With this action, every lawyer or member of the Florida Bar is considered a part of the judicial branch of government.

C. EFFECT OF PROPOSED CHANGES:

HB 1769 amends s. 11.062, F.S., to prohibit an *agency of the judicial branch*⁴ from using any funds to retain a lobbyist for representation before the legislative or executive branch. Accordingly, an agency of the judicial branch may not offer any funds to any person for lobbying purposes.

HB 1769 does allow a full-time employee of an agency of the judicial branch to register as a lobbyist and represent such agency before the legislative or executive branch. Additionally, an agency of the judicial branch may retain a lobbyist for purposes of representing such agency before the executive or legislative branch of the Federal Government.

HB 1769 removes the word "public" from the expression "public funds" for the purpose of disallowing *any* funds to be used for lobbying purposes that would violate the provisions of this section.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes"

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

³The Florida Supreme Court, in the *Petition of Florida State Bar Assn.*, 40 So. 2d 902, 906 (Fla. 1949), stated: "Attorneys are not, under the law, State or County Officers, but they are officers of the Court and as such constitute an important part of the judicial system. As was said in the case of *In re Integration of Nebraska State Bar Association*, supra, the law practice is so intimately connected with the exercise of judicial power in the administration of justice that the right to define and regulate the practice naturally and logically belongs to the judicial department of the government."

⁴The Florida Rules of Court, Judicial Administration Rules, Rule 2.051, Public Access to Judicial Records, references the term "agency of the judicial branch." However, neither Rule 2.051 nor any other provision in the Florida Rules of Court provide a definition of an "agency of the judicial branch."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Florida Bar does not have an official position on HB 1769 at this time.⁵

⁵ Pursuant to telephone conversation with Paul Hill, lobbyist for the Florida Bar, on April 2, 2001.

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The Florida Bar Foundation and Florida Legal Services have concerns with HB 1769. They feel this legislation may stop them from presenting advocacy on issues for legal services for the poor in Florida.⁶

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Staff Director:

Lauren Cyran

J. Marleen Ahearn, Ph.D., J.D.

⁶ Pursuant to telephone conversation with Joyce Dove, lobbyist for the Florida Bar Foundation and Florida Legal Services, on April 6, 2001.