

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Ethics and Elections Committee

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BILL: CS/SB 1754

INTRODUCER: Ethics and Elections Committee and Senator Posey

SUBJECT: Ethics

DATE: March 14, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kruse</u>	<u>Rubinas</u>	<u>EE</u>	<b>Fav/CS</b>
2.	_____	_____	<u>RC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Committee Substitute for Senate Bill 1754 prohibits any individual who qualifies as a lobbyist pursuant to section 11.045 or section 112.3215, F.S., or any local government charter or ordinance, from serving as a member of the Florida Commission on Ethics. The bill also prohibits members of the commission from actively lobbying, as provided in s. 11.045 or s. 112.3215, F.S., or any local government charter or ordinance, any state or local governmental entity while serving as a member of the commission. The bill contains a grandfather provision for lobbyists serving as members of the commission on July 1, 2006, who may serve and continue to lobby until the expiration of their current terms.

The proposed language also prohibits legislative members from receiving compensation from any business or agency that either directly or indirectly receives state funding.

The bill takes effect upon becoming law, except for the prohibition for legislative members which takes effect January 1, 2016.

The bill substantially amends the following sections of the Florida Statutes: s. 112.313 and s. 112.321.

## II. Present Situation:

The Florida Commission on Ethics is comprised of nine members. Five members are appointed by the Governor, two members are appointed by the Speaker of the House of Representatives, and two members are appointed by the President of the Senate. No more than three gubernatorial appointments may be from the same political party. One gubernatorial appointee must be a former city or county official and may be a former member of a local planning or

zoning board which had only advisory duties. The Speaker and President may not appoint more than one member from the same political party. No more than five members of the commission may be from the same political party at any one time and no member of the commission may hold any public employment.

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.”

Section 112.3215, 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 government affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity.”

Section 106.24(1)(b), F.S., prohibits lobbyists from serving as members of the Florida Elections Commission.

Currently, Florida law does not specifically prohibit members of the Legislature from receiving compensation from a business entity or agency that receives, either directly or indirectly, state funds. However, the Florida Ethics Code contains the following prohibitions:

- Section 112.313(3), F.S., currently prohibits agency employees and public officers from doing business with one’s agency. An exception to this prohibition exists for a legislator’s district office which is located on property owned by the legislator or in the legislator’s place of business.
- Section 112.313(4), F.S., currently prohibits agency employees, public officers, local government attorneys and the spouses and minor children of such employees, officers, and attorneys from accepting compensation or anything of value when the employee, officer or attorney knows or should know that the compensation or thing of value was given to influence the official actions of said employee, officer, or attorney.
- Section 112.313(6), F.S., prohibits a public officer, agency employee, or local government attorney from using his or her official position or duties in order to provide a benefit for himself, herself, or others.
- Section 112.313(7), F.S., prohibits public officers and agency employees, with exceptions, from being employed by or having a contract with an agency or business that is involved in a business relationship with the agency of which the public officer or employee belongs. This statute also prohibits public officers and employees from having a job or a contract that would create a continual conflict of interest between the officer or employee’s private interests and public duties.
- Section 112.313(8), F.S., prohibits public officers, agency employees, and local government attorneys from using inside information gained through public office or employment to benefit himself, herself, or any other person or entity.

**III. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 1754 prohibits any individual who qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215, F.S., or any local government charter or ordinance, from serving as commission members. The bill also prohibits members of the commission from actively lobbying, as provided in s. 11.045 or s. 112.3215, F.S., or any local government charter or ordinance, any state or local government entity while serving as a member of the commission. The prohibitions in the bill do not apply to persons serving as members of the commission on July 1, 2006, until the expiration of their current term.

The bill also prohibits legislative members from receiving compensation from any business or agency that either directly or indirectly receives state funds.

The bill takes effect upon becoming law except for the prohibition for legislative members which takes effect January 1, 2016.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The proposed prohibitions to ethics commission membership in Committee Substitute for Senate Bill 1754 are similar to the prohibitions imposed upon membership of the Florida Elections Commission during the 2002 legislative session.<sup>1</sup>

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>1</sup> See, s. 106.24(1)(b), Florida Statutes.

## **VIII. Summary of Amendments:**

None.

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