

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 435

Code of Ethics for Public Officers and Employees

SPONSOR(S): Ross

TIED BILLS:

IDEN./SIM. BILLS: SB 880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee		West	Mitchell
2) Governmental Operations Committee			
3) Fiscal Council			
4) State Administration Council			
5) _____			

SUMMARY ANALYSIS

HB 435 requires employees of quasi-governmental entities to follow the same ethics rules as those of government agencies. The bill would affect all partners and other professionals in a firm that consults or contracts with a quasi-governmental entity. These firms would be prevented from conducting any other business for two years with the quasi-governmental entity. In addition, such firms would be prohibited from conducting business with any other customers that do business with or are regulated by the same quasi-governmental entity.

HB 435 is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill adds new ethical oversight previously limited to state government to quasi-public entities and all private corporations and consultants that do business with these quasi-public entities. As such, the bill expands the reach of state government to many of the employees of companies that do business with quasi-public entities.

Safeguard individual liberty – The bill as drafted could eliminate the freedom of private business employees to do business with a large part of their customer base.

B. EFFECT OF PROPOSED CHANGES:

The employees of quasi-public entities will be required to follow the same ethics standards as employees of state agencies. This includes the rules of state employees for:

- solicitation of gifts under s. 112.313(2), F.S.
- the prohibition against one's relatives doing business with the agency under s. 112.313(3), F.S.
- the prohibition against representing another person or entity for compensation before the agency for two years after vacation of their position. s. 112.313(9)(a)4., F.S.

If these employees are not somehow "grandfathered" in under existing law, they may be required to vacate their positions before this bill becomes law.

Under the bill, section 112.313 (7)(c), F.S., would be added to read:

(c) An owner or officer of an entity that acts as a consultant or contractor for a quasi-public entity, and any employee of such consultant or contractor the duties of whose position are managerial, policymaking, or professional in nature, is subject to this subsection in the same manner as a public officer or employee of an agency unless specifically exempted by statute.

The bill may have implications for government contractors such as utilities, technology companies, accounting firms, planning firms and law firms. If one part of a company has a contract to do business with a quasi-public entity, no other part of that company would be able to do business with anyone that also contracted or does business with that same quasi-public entity.

Section 112.313(9)(c), F.S., could prevent a consultant or contractor from doing any further business with a quasi-public entity or anyone else that does business with the quasi-public entity for two years after any contract has been completed. Contractors may not be able to complete their contract requirements without violating the provisions of this bill.

It is unclear from the bill what authority the Commission on Ethics will have to investigate consultants and contractors under s. 112.324, F.S. It is also unclear if any penalties are imposed under s. 112.317, F.S., for violations of the new requirements.

The bill appears to be designed to address some of the recent alleged ethical problems with quasi-public entities like Citizens Property Insurance which serves as the state's insurer of last resort for Floridians who cannot otherwise obtain property insurance and PRIDE that runs prison industries. The goal of the bill seems to be to maintain public confidence in the institutions that establish and

carry out public policy. State law currently imposes limitations on public officers and employees, to prevent them from giving themselves lucrative outside contracts with the companies they run. The bill would extend these restrictions to quasi-public entities and the private consultants and contracting companies that do business with them.

C. SECTION DIRECTORY:

Section 1 amends s. 112.312, F.S., to add quasi-public entities to the definition of agency and then defines a quasi-public entity.

Section 2 amends s.112.313, F.S., requires that consultants or contractors and employees that are partners or professionals that do business with quasi-public entities will not be able to do any more business with the quasi-public entity or any of their other contractors for two years following the end of their contract.

Section 3 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

Each quasi-public entity will need to make major changes in how they conduct business.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

2. Other:

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES