

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 1634

INTRODUCER: Senator Lee

SUBJECT: Legislative Lobbying Expenditures

DATE: March 26, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Pre-meeting
2.			JU	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1634 amends the "Legislative Expenditure Ban" in s. 11.045, F.S., by providing that a Legislator or legislative employee may, under certain circumstances, accept:

- Individual servings of nonalcoholic beverages;
- A single meal at an event at which the member or employee is a speaker, moderator, or participant in a panel discussion; or
- Food and beverages provided as part of a "widely attended event" hosted by a membership organization or governmental body that is also a principal.

SB 1634 requires that the houses of the Legislature, or by joint rule, must adopt rules that:

- Allow for registration and approval of a "widely attended event;" and,
- Require members or employees to report attendance at a meeting.

The bill provides, under certain circumstances, an absolute defense to a complaint alleging a violation of the "Legislative Expenditure Ban" in s. 11.045, F.S., the gifts law in s. 112.3148, F.S., and the honoraria law in s. 112.3149, F.S. The bill provides that the changes made to s. 11.045, F.S., will expire on June 30, 2015.

This bill substantially amends s. 11.045, F.S.

II. Present Situation:

Section 11.045, F.S., contains provisions requiring legislative lobbying registration, requiring legislative lobbyist compensation reports, and it contains the "Legislative Expenditure Ban."

Specifically, s. 11.045(4)(a), F.S., prohibits a lobbyist from making, and a legislator or legislative employee from knowingly accepting, directly or indirectly any expenditure.¹

For purposes of this statute, the term “expenditure” means:

A payment, distribution, loan, advance, reimbursement, deposit, or anything of value made by a lobbyist or principal for the purpose of lobbying. The term does not include contributions or expenditures reported pursuant to chapter 106 or federal election law, campaign-related personal services provided without compensation by individuals volunteering their time, any other contribution or expenditure made by or to a political party or affiliated party committee, or any other contribution or expenditure made by an organization that is exempt from taxation under 26 U.S.C. s. 527 or s. 501(c)(4).²

The following penalties can be imposed for violation of the “Legislative Expenditure Ban:”

- A fine of not more than \$5,000;
- Reprimand;
- Censure;
- Probation; and/or
- Prohibition on lobbying for a period not to exceed 24 months.³

III. Effect of Proposed Changes:

SB 1634 allows a member or employee of the Legislature to accept individual servings of nonalcoholic beverages provided by a lobbyist or a principal as a courtesy to attendees of a meeting.

The bill also allows a member or employee of the Legislature who is attending a scheduled meeting of an established membership organization that is a principal of a lobbyist as a featured speaker, moderator, or participant of a panel discussion, he or she may accept a single meal if the meal was not solicited by the member or employee. If a member or employee accepts a meal under those circumstances, he or she must file a report recording his or her attendance with the Secretary of the Senate or the Clerk of the House of Representatives within 72 hours after attending the meeting.

The bill also allows a member or employee to accept food and beverages provided as part of a “widely attended event” hosted by a membership organization or governmental body that is a principal if:

- The event is registered at least 8 days before the event;
- The estimated cost per attendee, including food, beverages, entertainment, location, and related expenses does not exceed \$25;

¹ Section 11.045(4)(a), F.S., currently only exempts “floral arrangements or other celebratory items given to legislators and displayed in chambers the opening day of session.”

² § 11.045(1)(c), F.S.

³ § 11.045(7), F.S.

- The event is at a location accessible to the media, the host of the event has affirmed that the media are not excluded from the event, and members of the media may attend the event at no charge;
- The member or employee files a report recording his or her attendance at such an event with either the Secretary of the Senate or the Clerk of the House of Representatives; and,
- The invitation extended to the member or employee for the event is not directly or indirectly solicited by the member or employee.

The bill requires that there be either a rule of each house of the Legislature or a joint rule which must establish a process for approval of a "widely attended event." A list of approved "widely attended events" must be posted on the respective house's website at least 48 hours before the event. Under the bill, the rule may also provide for the registration and payment of a registration fee, or an exemption from the registration requirement and registration fee for such an event. If a group wants to register an event, it must provide the following information:

- Identification of the hosting membership organization or governmental body;
- The date of the event;
- The location of the event;
- An estimate of the total number of invitees expected to attend and an estimate of the total number of qualifying attendees to establish the event as a widely attended event;
- A list of members and employees of the Legislature invited to the event;
- A description of the industry or profession represented by the attendees of the event or the range of persons interested in the given issue presented at the event; and
- A good faith estimate of the cost of the event per attendee, including food, beverages, entertainment, location, and related expenses.

SB 1634 requires a member or employee of the Legislature who attends a meeting or "widely attended event" to report his or her attendance to the Secretary of the Senate or the Clerk of the House of Representatives within 72 hours after attending the meeting or event. Each house must adopt a rule establishing procedures for reporting their attendance at a meeting or "widely attended event" and providing for publication on the website of the house in which the member serves or the employee works. If an event has been approved and noticed, and the member or employee reported his or her attendance, those combined actions constitute an absolute defense to an allegation that he or she violated ss. 11.045, 112.3148, or 112.3149, F.S.

The bill defines the term "widely attended event" as "an event that is reasonably expected to be attended by at least 25 persons other than members and employees of the Legislature." Attendance at such an event must be open to persons from throughout a given industry or profession, or to a wide range of persons interested in a given issue presented at the event. Officials and employees from branches or levels of government other than the Legislature may be counted toward the required minimum of 25 attendees. However, relatives of a member or employee of the Legislature and guests of a member or employee do not count towards the minimum attendance requirement.

Finally, the bill provides that the changes made therein will expire on June 30, 2015, and the law will revert to the statutory language in effect on April 7, 2012.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.