

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: CS/SB 544

INTRODUCER: Committee on Ethics and Elections and Senator Braynon

SUBJECT: Legislative Lobbying Requirements

DATE: March 11, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	Fav/CS
2.			GO	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
- B. AMENDMENTS..... Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

CS/SB 544 clarifies that the use of a public facility or public property provided from a governmental entity to a legislator for a public purpose is not an expenditure for purposes of the “legislative expenditure ban” in s. 11.045, F.S.

This bill substantially amends s. 11.045, Florida Statutes.

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:

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

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:

CS/SB 544 creates a new exemption in the definition of “expenditure” for a “government-to-government use.” The Committee Substitute states that a “government-to-government use” is the “use of a public facility or public property that is made available by one governmental entity to a legislator for a public purpose, regardless of whether either is required to register any person as a lobbyist.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² § 11.045(1)(c), F.S.

³ § 11.045(7), F.S.

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:

The “old” gifts law in Section 112.3148, F.S., which predates the “Legislative Expenditure Ban,” prohibits certain gifts in excess of \$100 to reporting individuals (anyone required to file financial disclosure, including legislators) and procurement employees. Section 112.3148, F.S., exempts gifts given by a state, county, and municipal governments (and certain other governmental organizations) valued at more than \$100 if a public purpose can be shown. Current law requires annual disclosure of such gifts on a CE Form 10. Because both s. 11.045, F.S., and s. 112.3148, F.S., apply to members of the Legislature, it is important to note that, if a member were to accept an expenditure authorized by this bill, the member would be required to disclose the gift on a CE Form 10.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Ethics and Elections on March 11, 2013:

The CS differs from the original bill by permitting expenditures by a governmental entity, which are made for a public purpose, to a legislator rather than to another governmental entity.

B. Amendments:

None.