

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 1114

INTRODUCER: Senator Stargel

SUBJECT: Membership Associations that Receive Public Funds

DATE: March 11, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	<b>Pre-meeting</b>
2.			AP	

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**I. Summary:**

SB 1114 prohibits any membership association whose membership dues are paid for by public funds from expending such funds on litigation against the state. It also requires a membership association that receives more than 25 percent of its budget from public funds to file a report with the Legislature each year covering several specified topics.

**II. Present Situation:**

In Florida, not for profit corporations are regulated by the Florida Not For Profit Corporation Act (Act), which outlines the requirements for creating and managing a not for profit corporation as well as the powers and duties of the corporation.<sup>1</sup> The Act authorizes not for profit corporations to be created for any lawful purpose or purposes that are not for pecuniary profit and that are not specifically prohibited to corporations by other state laws.<sup>2</sup> The Act specifies that such purposes include charitable, benevolent, eleemosynary, educational, historical, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association purposes.<sup>3</sup>

Florida law authorizes not for profit corporations to operate with the same degree of power provided to for profit corporations in the state, including the power to appoint officers, adopt bylaws, enter into contracts, sue and be sued, and own and convey property.<sup>4</sup> Officers and directors of certain not for profit corporations also are protected by the same immunity from civil liability provided to directors of for profit corporations.<sup>5</sup> Unlike for profit corporations, certain not for profit corporations may apply for exemptions from federal, state, and local taxes.<sup>6</sup>

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<sup>1</sup> Chapter 90-179, L.O.F.

<sup>2</sup> Section 617.0301, F.S.

<sup>3</sup> *Id.*

<sup>4</sup> *See* ss. 617.0302 and 607.0302, F.S.

<sup>5</sup> *See* ss. 617.0834 and 607.0831, F.S.

<sup>6</sup> *See* 26 U.S.C. s. 501; Section 212.08(7)(p), F.S.

Not for profit corporations are required to submit an annual report to the Department of State that contains the following information:

- The name of the corporation and the state or country under the law of which it is incorporated;
- The date of incorporation or, if a foreign corporation, the date on which it was admitted to conduct its affairs in the state;
- The address of the principal office and the mailing address of the corporation;
- The corporation's federal employer identification number, if any, or, if none, whether one has been applied for;
- The names and business street addresses of its directors and principal officers;
- The street address of its registered office in the state and the name of its registered agent at that office; and
- Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of the Act.<sup>7</sup>

A not for profit corporation may receive public funds from the state or a local government in certain situations. Public funds are defined as “moneys under the jurisdiction or control of the state, a county, or a municipality, including any district, authority, commission, board, or agency thereof and the judicial branch, and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose.”<sup>8</sup> The state or a local government may provide public funds to a not for profit corporation through a grant or through payment of membership dues authorized for governmental employees and entities who are members of certain types of not for profit corporations.<sup>9</sup>

### III. Effect of Proposed Changes:

**Section 1** creates s. 617.221, F.S., to prohibit a membership association whose membership dues are paid by public funds from expending any of such funds on litigation against the state.

The bill also requires a membership association that receives more than 25 percent of its budget from public funds to file an annual report with the President of the Senate and the Speaker of the House of Representatives. The report is required to provide:

- The name and address of the membership association and any parent association, or a state, national or international association with which it is affiliated.
- The names, titles, telephone numbers, and addresses of the principal officers and all representatives of the association.
- The amount of the initiation fee, if any, and the amount of the annual dues that each member must pay.
- The current annual financial statement of the association.

<sup>7</sup> Section 617.1622, F.S.

<sup>8</sup> Section 215.85(3)(b), F.S.

<sup>9</sup> See, e.g., Section 2-103(a), Pinellas County Code (authorizing the board of county commissioners to expend monies from the county general fund for membership fees and dues for county employees and officials for professional associations); Section 120-65(a)(2), South Florida Water Management District Administrative Policies (authorizing the district to pay for an employee's membership in a professional organization not required by his or her job).

- A copy of the current constitution and bylaws of the association.
- The assets and liabilities at the beginning and end of the fiscal year.
- The salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and to each employee who, during such fiscal year, received more than \$10,000 in the aggregate from the association or any parent or affiliated association.
- The annual dollar amount of the following benefit packages paid to each of the principal officers of the association, including:
  - Health, major medical, vision, dental, or life insurance.
  - Retirement plans.
  - Automobile allowances.
- Separately, the amount of annual dues per member sent from the association to each state, national, or international affiliate.

**Section 2** provides an effective date of July 1, 2015.

**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:

The bill may have an indeterminate negative fiscal impact on membership associations because they would be required to file an annual report with the Legislature.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact on state government as a result of reducing litigation against the state by prohibiting membership associations from using monies received from public funds to pay for such litigation. The bill may have an indeterminate negative fiscal impact on the state as a result of the Legislature having to receive and process the required annual reports from membership associations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 617.221 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.