

1989

Session Law 89-325

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-325" (1989). *Staff Analysis*. 1118.
<https://ir.law.fsu.edu/staff-analysis/1118>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

B
I
L
L

H
I
S
T
O
R
Y

H 993 GENERAL BILL/CS/2ND ENG by Appropriations; Lippman; Sanderson and others (Compare CS/2ND ENG/H 1082, CS/CS/S 809) Lobbyists/Ethics Commission; provides legislative findings; establishes trust fund; requires lobbyists to register with Ethics Commission; provides for annual registration fee; requires expenditure reports; allows cancellation of registration; provides for investigations, reports, & advisory opinions by said commission; provides for penalties; provides for rules, etc. Creates 112.3215. Appropriation: \$98,810. Effective Date: 10/01/89.

03/17/89 HOUSE Prefiled
03/23/89 HOUSE Referred to Ethics & Elections; Appropriations
04/04/89 HOUSE Introduced, referred to Ethics & Elections; Appropriations -HJ 95
04/13/89 HOUSE On Committee agenda—Ethics & Elections, 04/17/89, 10:40 am, 317-C
04/17/89 HOUSE Preliminary Committee Action by Ethics & Elections: Favorable; Comm. Report: Favorable by Ethics & Elections -HJ 233; Now in Appropriations -HJ 233
04/24/89 HOUSE Subreferred to Subcommittee on Government Administration and Personnel
05/12/89 HOUSE On Committee agenda—Appropriations, 05/16/89, 8:00 am, 21-HOB
05/16/89 HOUSE Preliminary Committee Action by Appropriations: Favorable as a CS
05/19/89 HOUSE Comm. Report: CS by Appropriations, placed on Calendar -HJ 551; CS read first time -HJ 550
05/24/89 HOUSE Placed on Special Order Calendar
05/29/89 HOUSE Read second time -HJ 759; Amendments adopted; Read third time; CS passed as amended; YEAS 113 NAYS 0 -HJ 761
05/29/89 SENATE In Messages
05/31/89 SENATE Received, referred to Governmental Operations; Ethics and Elections; Rules and Calendar -SJ 620
06/01/89 SENATE Withdrawn from Governmental Operations; Ethics and Elections; Rules and Calendar; Substituted for CS/CS/SB 809 -SJ 798; CS passed as amended; YEAS 36 NAYS 0 -SJ 799
06/01/89 HOUSE In Messages
06/02/89 HOUSE Concurred; CS passed as further amended; YEAS 110 NAYS 0 -HJ 1376
06/02/89 Ordered engrossed, then enrolled
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-325

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: HB 993f.hee
DATE: June 22, 1989

HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS AND ELECTIONS
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 993

RELATING TO: Executive Branch Lobby Registration

SPONSOR(S): Committee on Appropriations and Representatives Lippman and Sanderson

EFFECTIVE DATE: October 1, 1989

DATE BECAME LAW: July 5, 1989

CHAPTER #: 89-325, Laws of Florida

COMPANION BILL(S): H 1046 (similar), CS/CS/S 809

OTHER COMMITTEES OF REFERENCE: (1) Appropriations

(2)

I. SUMMARY:

A. PRESENT SITUATION:

Article II, s. 8(e), Fla. Const., prohibits legislators and **statewide elected officers** from personally representing other persons or entities for compensation before the government body or agency of which they were an officer or member for two years after leaving office. In addition, legislators cannot personally represent other entities or persons for compensation during their term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be provided by law, but have not to date.

Currently, there are no similar reporting or registration provisions in state law required of persons lobbying executive branch agencies or the cabinet for compensation or reimbursement.

B. EFFECT OF PROPOSED CHANGES:

This bill requires persons seeking to do business with or lobby (for compensation and other than individually) a state agency under the jurisdiction of the Cabinet and Governor to register as a lobbyist with the Florida Commission on Ethics.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. States the findings of the Legislature regarding public disclosure of the activities of those who seek to influence or do business with state government.

Section 2. Creates s. 112.3215, F.S., within the Code of Ethics for Public Officers and Employees to require persons who seek business with, or seek to influence state agencies under the jurisdiction of the Governor and Cabinet, prior to engaging in such activities, to register with the Florida Commission on Ethics.

"Lobbyist" is defined to mean "a person who for compensation, remuneration, or commission, on behalf of another person, lobbies an agency" or is a person principally employed for governmental affairs by another person to lobby on behalf of that other person.

For the purposes of complying with this section, "lobbyist" does not mean:

1. an attorney, or other person, who represents a client in judicial proceedings, or formal administrative hearings conducted pursuant to chapter 120, or formal hearings before an agency, board, commission, or authority of this state;
2. state agency employees acting in the normal course of his duties;
3. confidential informants providing information to be used for law enforcement purposes;
4. a person who lobbies to procure a contract, the total value of which does not exceed \$2,999 (the threshold for a Category One contract starts at \$600 and extends up to \$2,999.99).

"Lobbies" means seeking, on behalf of another person, to influence an agency's decision in the areas of policy or procurement.

An "Executive Branch Lobby Registration Trust Fund" is created within the Commission on Ethics with annual registration fees of \$10 per registered lobbyist being deposited into the fund for use by the Commission in administering the registrations.

Persons registering to lobby executive branch agencies shall register upon initially being retained to lobby and on January 1 of each year thereafter. Such registration shall disclose the registrant's name and business address; the name and address of each principal he represents; his area(s) of interest; the agencies before which he will appear; and the existence of any direct or indirect business relationship with any employee of any agency with which he lobbies or intends to lobby.

Executive branch lobbyists shall also report under oath to the Commission on Ethics, on January 1 and July 1 of each year, an expenditure report summarizing lobbying expenditures including meals, entertainment, and gifts for public officers and employees, and the sources from which the funds for these expenditures came, for the preceding six months.

A lobbyist may cancel his registration with the Commission upon termination of his contract or employment relationship with his principal by written notification to the Commission.

Sworn complaints may be filed with the Commission on Ethics against persons required to register under this section if a person has failed to register; has failed to file the required expenditure reports; or has knowingly submitted false information in the required reports. If a violation is found to have occurred, the Governor and Cabinet may reprimand, censure, or prohibit the violator from lobbying all agencies for a period not to exceed 2 years.

Person required to register may seek an advisory opinion from the Commission when in doubt about the applicability and interpretation of this law to himself. The Commission shall issue an advisory opinion and the opinion shall be binding on the person who sought the opinion.

Agencies are required to determine whether persons required to register to lobby under this act have complied and may not knowingly permit a person to lobby the agency who is not properly registered. Agencies or persons may file sworn complaints with the Commission upon discovery of violations of this act.

The Commission is authorized to adopt rules to include the development of forms for registration and reporting, procedures for registration, and procedures for preventing the disclosure of confidential information.

Section 3. Appropriates 1.5 positions and \$98,810 to the Commission from the Executive Branch Lobby Registration Trust Fund for the fiscal year 1989-90 to fund the provisions of the act.

Section 4. The effective date is October 1, 1989.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

The Commission on Ethics
Other Personal Services
Operating Capital Outlay

Total \$

2. Recurring or Annualized Continuation Effects:

REVENUE:

The Commission on Ethics
Revenue from Fees \$100,000

EXPENDITURES:

The Commission on Ethics
Salaries and Benefits (1.5 FTE)
Expenses

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

REVENUE:

Executive Branch Lobby Registration
Trust Fund \$100,000

EXPENDITURES:

Executive Branch Lobby Registration \$ 98,810

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise, and Employment Markets:

None

D. FISCAL COMMENTS:

The revenue estimates are based on 10,000 of the estimated 8,000-12,000 potential registrants paying the \$10 fee.

III. LONG RANGE CONSEQUENCES:

IV. COMMENTS:

V. AMENDMENTS:

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:


Jane C. Tillman

Staff Director:


Wayne R. Malaney

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Kane _____	Stengle _____	1. GO _____	Fav/CS _____
2. Cochran <i>MC</i> _____	Stephens <i>AS</i> _____	2. EE _____	Fav/CS _____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Registration of Lobbyists;
Executive Branch Agencies

BILL NO. AND SPONSOR:

CS/CS/SB 809 by Ethics and
Elections and Governmental
Operations and Senators Kiser
and Brown, et al.

I. SUMMARY:

A. Present Situation:

Section 11.045, F.S., requires lobbyists before the Legislature to register with a designated office before engaging in representation. In this context, a lobbyist is someone who seeks to encourage the passage, defeat, or modification of legislation. Each lobbyist must register separately for each principal represented, providing a sworn statement stating his own name and business address, that of his principal, and the general and specific areas of his interest. Direct business associations with a current member of the Legislature must be disclosed. A person who appears before the Legislature and its committees in an individual capacity without compensation is exempt from the registration requirement.

Lobbyists are required to report twice yearly on all lobbying expenditures and their sources, other than personal expenses for lodging, meals, and travel. Upon the filing of a sworn complaint, the Legislature is directed to investigate, and may discipline, a lobbyist who fails to comply with registration requirements. Penalties are censure, reprimand, probation or prohibition from lobbying during the biennium in which the violation occurred.

Section 11.061, F.S., requires specified state employees of the executive and judicial branches, and community colleges to register as lobbyists before appearing before the Legislature.

The Commission on Ethics is established by s. 112.320, F.S., to administer the Code of Ethics for public officers and employees of state and local government. The code provides for a number of disclosure requirements by specified officers and employees.

The Commission on Ethics has been determined by the Florida Supreme Court to be an entity of the legislative branch. Florida Commission on Ethics v. Sullivan, 489 So.2d 10 (Fla. 1986). The commission is authorized to subpoena, investigate, and hold hearings, but has no enforcement authority. The commission recommends penalties to the officers and officials given the authority by law to impose penalties upon specified officers and employees.

No provisions of law currently require registration of attorneys or lobbyists who appear for compensation before executive branch agencies.

3. Effect of Proposed Changes:

Section 112.3215, F.S., is created in the Ethics Code to require persons not employed by the state who seek to influence

activities of executive branch agencies on behalf of another for compensation or reimbursement to register with the Commission on Ethics and report their activities. The registration fee is \$25 annually. Persons representing others in judicial proceedings, administrative proceedings, or other formal hearings before an agency, board, commission, or authority are exempt from the provisions of the bill. All persons affected by the bill must report any business association, partnership or relationship with current employees of agencies which they are seeking to influence.

Registration requirements would not operate to require disclosure of any information made confidential by law, and the Secretary would provide for modified registration procedures as necessary to prevent disclosure of such information. Confidential informants to law enforcement agencies would be completely exempted from the law.

Persons subject to the provisions of the bill would be required to submit semiannual statements under oath listing lobbying expenditures, and the sources from which they came, for the preceding six months, to the Commission on Ethics.

The Commission on Ethics would investigate sworn complaints alleging that a person had failed to register, failed to file a report, or knowingly submitted false information in any report or registration. If the Commission found probable cause to believe a violation had occurred, the investigation results would be reported to the Governor and Cabinet. If the Governor and Cabinet found that a violation had occurred, the violator could be reprimanded, censured, or prohibited from seeking to influence executive branch agencies. A person could request an advisory opinion from the Commission about the applicability of the law to himself. The advisory opinion would be binding on the conduct of the person who sought the opinion. Any agency or person could file a sworn complaint of any violations of the provisions of the bill. The Commission would be required to adopt rules to implement the provisions of the bill.

The effective date is October 1, 1989.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Lobbyists before state executive branch agencies would have to register and account for expenditures associated with representation activities. The registration fee is \$25 annually.

B. Government:

The Commission on Ethics indicates that additional manpower would be needed to handle this program. The amount of revenue generated by the \$25 registration fee cannot be estimated at this time and therefore it is not known whether the registration fees will adequately offset the costs to the Commission.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/Senate Bill 809

The bill would not pertain to persons seeking business with the state, unless they were also seeking to influence the state for or on behalf of another. Persons representing others in judicial proceedings, administrative proceedings, or other formal hearings would be exempt. Persons subject to the provisions of the bill would register with the Commission on Ethics. A procedure for the Commission to investigate violations is established. The Commission is authorized to adopt rules.

Committee on Ethics & Elections


Staff Director

(FILE THREE COPIES WITH THE SECRETARY OF THE SENATE)