

anticipated that any impact on the offender populations would be minor."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate

2. Direct Private Sector Benefits:

Indeterminate

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

None

D. FISCAL COMMENTS:

See A. 4. above.

III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

According to the State Attorney Jerry Hill's office, 29 states have commercial bribery statutes. Currently, the state attorneys can sometimes bring theft or fraud charges in these types of situations.

V. SIGNATURES:

COMMITTEE ON CRIMINAL JUSTICE:

Prepared by:

Susan B. Bisbee

Staff Director:

Robin S. Hassler

STORAGE NAME: h1283slz.cj

DATE: June 12, 1990

PAGE: 4

FINAL ANALYSIS PREPARED BY COMMITTEE ON CRIMINAL JUSTICE:

Prepared by:

Staff Director:





Susan B. Bisbee

Robin S. Hassler



SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Miller <i>cm</i>	Liepshutz <i>[Signature]</i>	1. JCR	Fav/CS
2. _____	_____	2. AP	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Bribery

BILL NO. AND SPONSOR:

CS/SB 2598 by Committee on JCR and Senator Langley

I. SUMMARY:

A. Present Situation:

Chapter 838, Florida Statutes, provides criminal penalties for bribery and unlawful compensation involving public officials. Bribery means corruptly to give, offer, or promise to any public servant, or, if a public servant, to corruptly request, solicit, accept, or agree to accept for himself or another, any pecuniary or other benefit with the intent to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty. s. 838.015(1), F.S.

Public servant is broadly defined, and includes, for example, any public officer, agent, or employee of government, whether elected or appointed, including legislative, elective, or judicial; any elected or appointed person who holds an office or position in a political party or political party committee; a special master, auditor, juror, referee, or hearing officer, or person acting on behalf of any of these, in performing a governmental function. s. 838.014(4), F.S.

The offenses of bribery and unlawful compensation or reward for official behavior are third degree felonies.

B. Effect of Proposed Changes:

CS/SB 2598 would create sections 838.15 and 838.16, F.S., which provide for the offenses of commercial bribe receiving and commercial bribery.

A person would be guilty of commercial bribe receiving, a third degree felony, if the person solicits, accepts, or agrees to accept a benefit with intent to violate a duty to which that person is subject to as an agent or employee of another; a trustee, guardian, fiduciary; a lawyer, physician, accountant, appraiser or another professional advisor; an officer, director, partner, manager, or participant in the affairs of an organization; or an arbitrator, adjudicator, or referee. s. 838.15(1), F.S.

A person would be guilty of commercial bribery, a third degree felony, if the person knowingly attempts to influence by conferring or offering to confer a benefit on a person to violate a duty described in newly created s. 838.15(1), F.S., with the intent to influence the other to violate that duty.

The CS would also reenact ss. 772.102 and 895.02, F.S., for the purpose of incorporating the amendment to chapter 838. A person convicted of the offense of commercial bribe receiving or commercial bribery would be estopped from asserting a

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defense in a civil action concerning an element which had been proven in the criminal action as if the plaintiff had been a party in the criminal action, and the offenses of commercial bribe receiving and commercial bribery would be classified as Racketeer Influenced and Corrupt Organization (RICO) crimes. Sections 112.3173 and 121.091, regarding the Florida Retirement System, would be amended to exclude the newly created sections in chapter 838.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections reports that no empirical data is available upon which to base an estimate of fiscal impact. It is, however, anticipated that any impact on the offender populations would be minor.

III. COMMENTS:

The State Attorneys Office in the Tenth Judicial Circuit reports that it has been confronted with certain fact patterns that precipitated the drafting of this bill. According to that office, the fraud and theft statutes can sometimes be stretched to cover such facts.

The State Attorney's Office conducted a nationwide survey to determine how many states have commercial bribery statutes. Of the 46 states that responded, 29 of those states currently have such a law.

IV. AMENDMENTS:

None.





SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. Miller	Liepshutz	1. JCR	Fav/CS
2. Stampelos <i>ms</i>	Smith <i>as</i>	2. AP	Favorable
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Bribery

BILL NO. AND SPONSOR:

CS/SB 2598 by  
Committee on JCR and  
Senator Langley

I. SUMMARY:

A. Present Situation:

Chapter 838, Florida Statutes, provides criminal penalties for bribery and unlawful compensation involving public officials. Bribery means corruptly to give, offer, or promise to any public servant, or, if a public servant, to corruptly request, solicit, accept, or agree to accept for himself or another, any pecuniary or other benefit with the intent to influence the performance of any act or omission which the person believes to be, or the public servant represents as being, within the official discretion of a public servant, in violation of a public duty, or in performance of a public duty. s. 838.015(1), F.S.

Public servant is broadly defined, and includes, for example, any public officer, agent, or employee of government, whether elected or appointed, including legislative, elective, or judicial; any elected or appointed person who holds an office or position in a political party or political party committee; a special master, auditor, juror, referee, or hearing officer, or person acting on behalf of any of these, in performing a governmental function. s. 838.014(4), F.S.

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B. Effect of Proposed Changes:

CS/SB 2598 would create sections 838.15 and 838.16, F.S., which provide for the offenses of commercial bribe receiving and commercial bribery.

A person would be guilty of commercial bribe receiving, a third degree felony, if the person solicits, accepts, or agrees to accept a benefit with intent to violate a duty to which that person is subject to as an agent or employee of another; a trustee, guardian, fiduciary; a lawyer, physician, accountant, appraiser or another professional advisor; an officer, director, partner, manager, or participant in the affairs of an organization; or an arbitrator, adjudicator, or referee. s. 838.15(1), F.S.

A person would be guilty of commercial bribery, a third degree felony, if the person knowingly attempts to influence by conferring or offering to confer a benefit on a person to violate a duty described in newly created s. 838.15(1), F.S., with the intent to influence the other to violate that duty.

The CS would also reenact ss. 772.102 and 895.02, F.S., for the purpose of incorporating the amendment to chapter 838. A person convicted of the offense of commercial bribe receiving



or commercial bribery would be estopped from asserting a defense in a civil action concerning an element which had been proven in the criminal action as if the plaintiff had been a party in the criminal action, and the offenses of commercial bribe receiving and commercial bribery would be classified as Racketeer Influenced and Corrupt Organization (RICO) crimes. Sections 112.3173 and 121.091, regarding the Florida Retirement System, would be amended to exclude the newly created sections in chapter 838.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections reports that no empirical data is available upon which to base an estimate of fiscal impact. It is, however, anticipated that any impact on the offender populations would be minor.

III. COMMENTS:

The State Attorneys Office in the Tenth Judicial Circuit reports that it has been confronted with certain fact patterns that precipitated the drafting of this bill. According to that office, the fraud and theft statutes can sometimes be stretched to cover such facts.

The State Attorney's Office conducted a nationwide survey to determine how many states have commercial bribery statutes. Of the 46 states that responded, 29 of those states currently have such a law.

IV. AMENDMENTS:

None.

STORAGE NAME: h1283a.cj  
DATE: April 19, 1990

HOUSE OF REPRESENTATIVES  
COMMITTEE ON CRIMINAL JUSTICE  
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1283

RELATING TO: Bribery

SPONSOR(S): Committee on Criminal Justice and Representative Canady

EFFECTIVE DATE: October 1, 1990

COMPANION BILL(S): SB 2598

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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I. SUMMARY:

A. PRESENT SITUATION:

Chapter 838, F. S., provides criminal penalties for bribery and unlawful compensation involving public officials. Bribery means corruptly to give, offer, or promise to a public servant or a public servant requesting, soliciting, accepting, or agreeing to accept benefit with the intent to influence the performance of any act or omission which the person believes to be within the discretion or public duty of the public servant.

Public servant is broadly defined, and includes any public officer, agent, or employee of government, whether elected or appointed, including legislative, elective, or judicial, hearing examiner, referee, consultant, special master, and elected or appointed person who holds an office or position in a political party or political party committee.

The offenses of bribery of a public servant and unlawful compensation for official for official behavior are third degree felonies.

B. EFFECT OF PROPOSED CHANGES:

This bill would create sections 838.15, and 838.16 F. S., which creates the offenses of commercial bribe receiving and commercial bribery. Commercial bribe receiving would be defined as a person soliciting, accepting, or agreeing to accept a benefit with intent to violate a duty to which that person is subject as:

1. an agent or employee of another;
2. a trustee, guardian, or other fiduciary;
3. a lawyer, physician, accountant, appraiser, or other professional adviser;
4. an officer, director, partner, manager, or other participant in the direction of the affairs of an organization; or

5. an arbitrator or other purportedly disinterested adjudicator or referee.

The offense of commercial bribery is knowingly attempting to influence by conferring or offering to confer a benefit on a person to violate a duty to which a person is subject pursuant to the relationship described in s. 838.15(1) with the intent to influence the other to violate that duty.

The offenses of commercial bribe receiving and commercial bribery are third degree felonies.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 creates the offense of commercial bribe receiving.

Section 2 creates the offense of commercial bribery.

Section 3 reenacts ss. 112.3173, 121.091, 772.102, and 895.02, F.S., for the purpose of incorporating the amendment to chapter 838. However, a person convicted of the offenses of commercial bribe receiving and commercial bribery would not forfeit their benefits under the Florida Retirement System; the defendant would be estopped from asserting a defense in a civil action concerning an element which has been proven in the criminal action as if the plaintiff had been a party in the criminal action; and commercial bribery and commercial bribe receiving would be a RICO crime.

Section 4 provides an effective date of October 1, 1990.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

4. Appropriations Consequences:

The Department of Corrections states: "No empirical data is available upon which to base an estimate of impact. It is anticipated that any impact on the offender populations would be minor."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Indeterminate

2. Direct Private Sector Benefits:

Indeterminate

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

None

D. FISCAL COMMENTS:

See A. 4. above.

III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

According to the State Attorney Jerry Hill's office, 29 states have commercial bribery statutes. Currently, the state attorneys can sometimes bring theft or fraud charges in these types of situations.

V. AMENDMENTS:

VI. SIGNATURES:

COMMITTEE ON CRIMINAL JUSTICE:

Prepared by:

Susan G. Bisbee  
Susan G. Bisbee

Staff Director:

Robin S. Hassler  
Robin S. Hassler

To: House Appropriations Committee  
221 The Capitol; Tallahassee, FL 32399-1300

Date: 2/2/90

From: Agency Affected \_\_\_\_\_  
Program Manager \_\_\_\_\_  
Agency Contact \_\_\_\_\_  
Respondent Rodney Caddy

Telephone \_\_\_\_\_  
Telephone \_\_\_\_\_  
Telephone \_\_\_\_\_  
Telephone 488-8323

The following information is requested on Bill Number HB 1283 :  
ALSO, PLEASE PROVIDE A COPY OF THE COMPLETED FORM TO THE SUBSTANTIVE COMMITTEE OF INITIAL REFERENCE.

Funds required to administer the bill's provisions by appropriation categories (salaries & benefits, expenses, other personal services, operating capital outlay, fixed capital outlay, etc.). Also, funding sources (i.e., General Revenue, State Transportation Trust Fund, etc.), and any revenue collections.

	Amount Year 1 (FY 89-90)	Amount Year 2 (FY 90-91)	Amount Year 3 (FY 91-92)
I. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:			
A. Non-recurring or First Year Start-Up Effects:			This bill will have no fiscal impact on FDLE.
B. Recurring or Annualized Continuation Effects:			
C. Long-Run Effects Other Than Normal Growth:			
D. Appropriation Consequences:			

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II. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

B. Recurring or Annualized Continuation Effects:

C. Long-Run Effects Other Than Normal Growth:

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COMMITTEE  
90 FEB 16 AM 11:38

III. DIRECT FISCAL IMPACT ON PRIVATE SECTOR:

A. Direct Private Sector Costs:

B. Direct Private Sector Benefits:

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

---

IV. FISCAL COMMENTS:

STORAGE NAME: h1283.cj  
DATE: April 7, 1990

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HOUSE OF REPRESENTATIVES  
COMMITTEE ON CRIMINAL JUSTICE  
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1283

RELATING TO: Bribery

SPONSOR(S): Representative Canady

EFFECTIVE DATE: October 1, 1990

COMPANION BILL(S): SB 2598

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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\*\*\*\*\*

I. SUMMARY:

A. PRESENT SITUATION:

Chapter 838, F. S., provides criminal penalties for bribery and unlawful compensation involving public officials. Bribery means corruptly to give, offer, or promise to a public servant or a public servant requesting, soliciting, accepting, or agreeing to accept benefit with the intent to influence the performance of any act or omission which the person believes to be within the discretion or public duty of the public servant.

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The offenses of bribery of a public servant and unlawful compensation for official for official behavior are third degree felonies.

B. EFFECT OF PROPOSED CHANGES:

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1. an agent or employee of another;
2. a trustee, guardian, or other fiduciary;
3. a lawyer, physician, accountant, appraiser, or other professional adviser;
4. an officer, director, partner, manager, or other participant in the direction of the affairs of an organization; or

5. an arbitrator or other purportedly disinterested adjudicator or referee.

The offense of commercial bribery is knowingly attempting to influence by conferring or offering to confer a benefit on a person to violate a duty described in s. 838.15(1) with the intent to influence the other to violate that duty.

The offenses of commercial bribe receiving and commercial bribery are third degree felonies.

C. SECTION-BY-SECTION ANALYSIS:

Section 1 creates the offense of commercial bribe receiving

Section 2 creates the offense of commercial bribery.

Section 3 reenacts ss. 112.3173, 121.091, 772.102, and 895.02, F.S., for the purpose of incorporating the amendment to chapter 838. A person convicted of the offenses of commercial bribe receiving and commercial bribery would forfeit their benefits under the Florida Retirement System; the defendant would be estopped from asserting a defense in a civil action concerning an element which has been proven in the criminal action as if the plaintiff had been a party in the criminal action; and commercial bribery and commercial bribe receiving would be a RICO crime.

Section 4 provides an effective date of October 1, 1990.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

4. Appropriations Consequences:

The Department of Corrections states: "No empirical data is available upon which to base an estimate of impact. It is anticipated that any impact on the offender populations would be minor."



B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

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

Indeterminate

2. Recurring or Annualized Continuation Effects:

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3. Long Run Effects Other Than Normal Growth:

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C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

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2. Direct Private Sector Benefits:

Indeterminate

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

None

D. FISCAL COMMENTS:

See A. 4. above.

III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

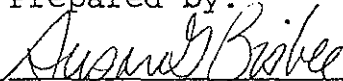
According to the State Attorney Jerry Hill's office, 29 states have commercial bribery statutes. Currently, the state attorneys can sometimes bring theft or fraud charges in these types of situations.

V. AMENDMENTS:

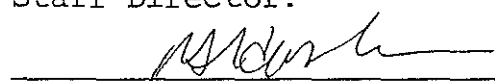
VI. SIGNATURES:

COMMITTEE ON CRIMINAL JUSTICE:

Prepared by:

  
Susan G. Bisbee

Staff Director:

  
Robin S. Hassler

STORAGE NAME: h1283s1z.cj  
DATE: June 12, 1990

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HOUSE OF REPRESENTATIVES  
COMMITTEE ON CRIMINAL JUSTICE  
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: CS/HB 1283

RELATING TO: Commercial Bribery

SPONSOR(S): Committee on Criminal Justice and Representative Canady

EFFECTIVE DATE: October 1, 1990

DATE BECAME LAW: July 3, 1990

CHAPTER #: 90-301, Laws of Florida

COMPANION BILL(S): CS/SB 2598

OTHER COMMITTEES OF REFERENCE: (1) Appropriations  
(2)

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I. SUMMARY:

A. PRESENT SITUATION:

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Section 4 provides an effective date of October 1, 1990.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

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

Indeterminate

2. Recurring or Annualized Continuation Effects:

Indeterminate

3. Long Run Effects Other Than Normal Growth:

Indeterminate

4. Appropriations Consequences:

The Department of Corrections states: "No empirical data is available upon which to base an estimate of impact. It is