

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ETHICS AND ELECTIONS**  
**Senator Baxley, Chair**  
**Senator Braynon, Vice Chair**

**MEETING DATE:** Wednesday, November 13, 2019  
**TIME:** 4:00—5:30 p.m.  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Baxley, Chair; Senator Braynon, Vice Chair; Senators Diaz, Passidomo, Powell, Rodriguez, and Stargel

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
<b>Florida Building Commission</b>			
1	Fischer, Charles W., Jr. (Lighthouse Point)	01/30/2023	Recommend Confirm Yeas 7 Nays 0
<b>Board of Trustees of Daytona State College</b>			
2	Freckleton, Lloyd J. (Flagler Beach)	05/31/2023	Recommend Confirm Yeas 7 Nays 0
<b>Board of Trustees of St. Johns River State College</b>			
3	Garrison, Samuel P. (Fleming Island)	05/31/2022	Recommend Confirm Yeas 7 Nays 0
<b>Board of Trustees of Seminole State College</b>			
4	Cortes, Robert (Altamonte Springs)	05/31/2023	Recommend Confirm Yeas 7 Nays 0
<b>Board of Trustees of Valencia College</b>			
5	Davis, John F. (Orlando)	05/31/2022	Recommend Confirm Yeas 7 Nays 0
<b>Commission on Ethics</b>			
6	Gilzean, Glenton, Jr. (Ocoee)	06/30/2020	Recommend Confirm Yeas 7 Nays 0
<b>Jacksonville Transportation Authority</b>			
7	Driver, G. Ray, Jr. (Jacksonville)	05/31/2023	Recommend Confirm Yeas 7 Nays 0
	Jolly, Arezou C. (Jacksonville)	05/31/2022	Recommend Confirm Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	Presentation by Chris Anderson, Executive Director, The Florida Commission on Ethics, on the Implementation of Amendment 12:  Lobbying and Abuse of Office by Public Officers		Presented

**COMMITTEE MEETING EXPANDED AGENDA**

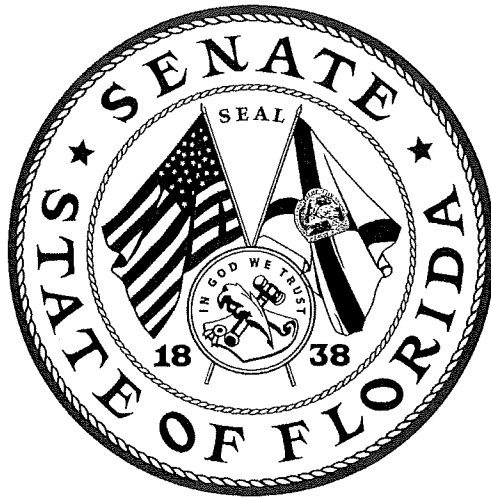
Ethics and Elections

Wednesday, November 13, 2019, 4:00—5:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
9	<b>SPB 7006</b>	Penalties for Violations of the Constitutional Prohibition Against Abuse of Public Position; Reenacting provisions relating to penalties, etc.	Submitted and Reported Favorably as Committee Bill Yeas 7 Nays 0
Other Related Meeting Documents			

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Committee:  
**ETHICS AND ELECTIONS**

Senator Baxley, Chair  
Senator Braynon, Vice Chair

**Meeting Packet**  
Wednesday, November 13, 2019  
4:00—5:30 p.m.  
Pat Thomas Committee Room, 412 Knott Building

**The meeting materials for bills on the agenda are in the following order behind each tab:**

*If a Proposed Committee Substitute is being offered, materials precede the original bill in this order (a separate tab may be used for combined PCS and materials):*

- o Bill Analysis for the PCS*
- o Filed amendments to the PCS*
- o Proposed Committee Substitute*
- o Miscellaneous information*

- Bill Analysis**
- Filed amendments to the bill**
- Bill**
- Amendments from previous committees**
- Miscellaneous information**

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**

**ETHICS AND ELECTIONS**  
**Senator Baxley, Chair**  
**Senator Braynon, Vice Chair**

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2	Freckleton, Lloyd J. (Flagler Beach)	05/31/2023	
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<b>Commission on Ethics</b>			
6	Gilzean, Glenton, Jr. (Ocoee)	06/30/2020	
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7	Driver, G. Ray, Jr. (Jacksonville)	05/31/2023	
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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8		Presentation by Chris Anderson, Executive Director, The Florida Commission on Ethics, on the Implementation of Amendment 12:  Lobbying and Abuse of Office by Public Officers	
Consideration of proposed bill:			
9	<b>SPB 7006</b>	Penalties for Violations of the Constitutional Prohibition Against Abuse of Public Position; Reenacting provisions relating to penalties, etc.	

**COMMITTEE MEETING EXPANDED AGENDA**

Ethics and Elections

Wednesday, November 13, 2019, 4:00—5:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

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The Florida Senate  
**COMMITTEE MEETING PACKET TAB**

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## Ethics and Elections

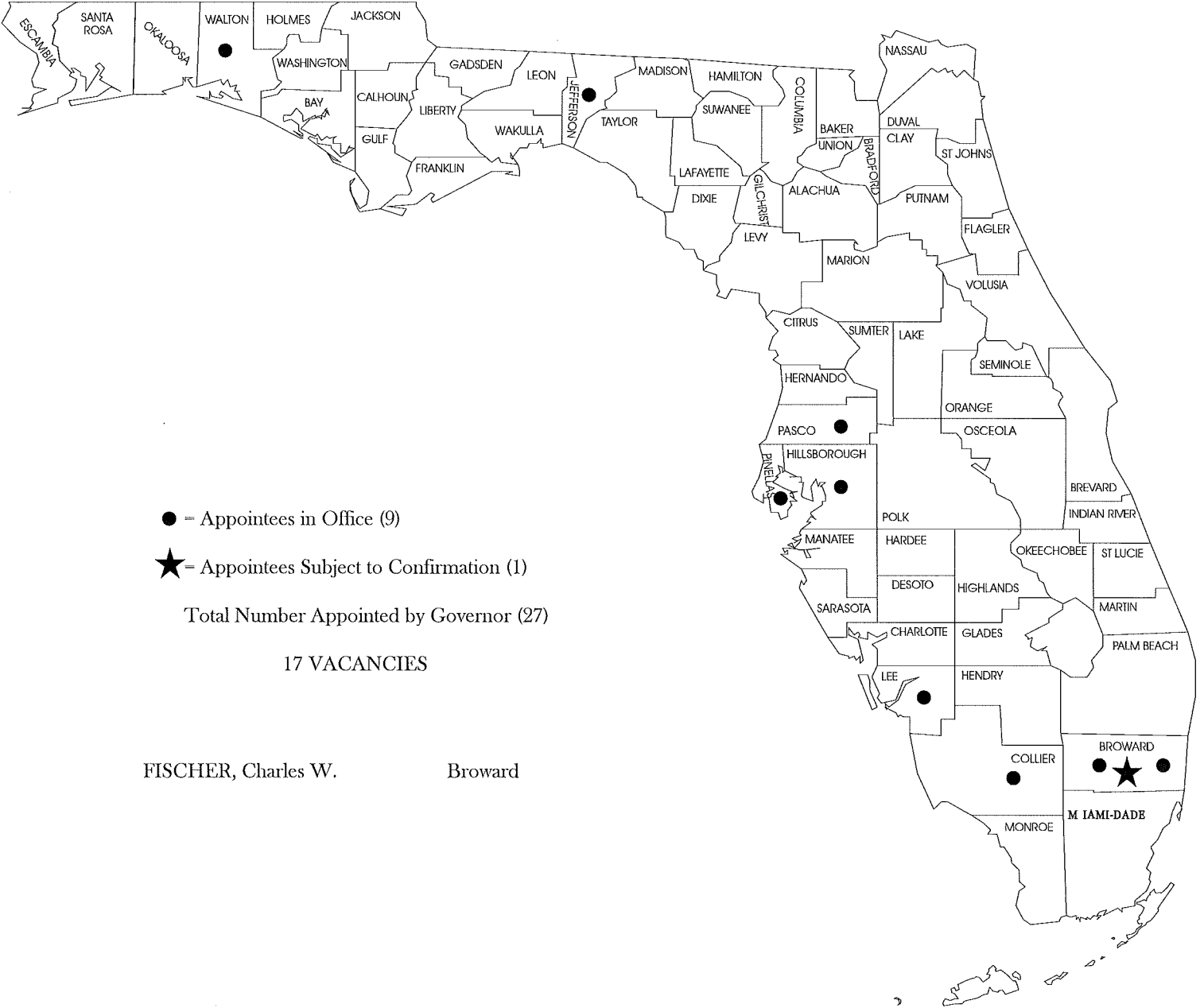
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**MEETING DATE:** Wednesday, November 13, 2019

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**PLACE:** Pat Thomas Committee Room, 412 Knott Building

# Florida Building Commission



- = Appointees in Office (9)
  - ★ = Appointees Subject to Confirmation (1)
- Total Number Appointed by Governor (27)
- 17 VACANCIES

FISCHER, Charles W.

Broward



# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Fischer, Charles W., Jr.  
 Term: 08/09/2019 – 01/30/2023

Appointed: 08/09/2019  
 Prior Term:

City/County: Lighthouse Point/Broward

Office: Florida Building Commission, Member

Authority: 553.74, F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 9/12/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 9/20/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)		X	
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

**Occupation:** President, C.W. Fischer Electric (Electrical Contractor)

**Compensation:** Members of the board serve without compensation, but shall be entitled to reimbursement for per diem and travel expenses as provided by s. 112.061, F.S.

**Requirements:** The 27 member commission shall be composed of the following:

- One architect registered to practice in this state and actively engaged in the profession;
- One structural engineer registered to practice in this state and actively engaged in the profession;
- One mechanical contractor certified to do business in this state and actively engaged in the profession;
- One electrical contractor certified to do business in this state and actively engaged in the profession;
- One member from fire protection engineering or technology who is actively engaged in the profession;
- One general contractor certified to do business in this state and actively engaged in the profession;
- One plumbing contractor licensed to do business in this state and actively engaged in the profession;
- One roofing, sheet metal, or air-conditioning contractor certified to do business in this state and actively engaged in the profession;
- One residential contractor licensed to do business in this state and actively engaged in the profession;
- Three members who are municipal or district codes enforcement officials, one of whom is also a fire official;
- One member who represents the Department of Financial Services;
- One member who is a county codes enforcement official;
- One member of a Florida-based organization of persons with disabilities or a nationally chartered organization of persons with disabilities with chapters in this state;
- One member of the manufactured buildings industry who is licensed to do business in this state and is actively engaged in the industry;
- One mechanical or electrical engineer registered to practice in this state and actively engaged in the profession;
- One member who is a representative of a municipality or a charter county;
- One member of the building products manufacturing industry who is authorized to do business in this state and actively engaged in the industry;
- One member who is a representative of the building owners and managers industry who is actively engaged in commercial building ownership or management;
- One member who is a representative of the insurance industry; and,
- One member who is a representative of public education;
- One member who is a swimming pool contractor licensed to do business in this state and actively engaged in the profession; and
- One member who is a representative of the green building industry and who is a third-party commission agent, a Florida board member of the United States Green Building Council or Green Building Initiative, a professional who is accredited under the International Green Construction Code, or a LEED-accredited professional;
- One member who is a representative of the natural gas distribution system and who is actively engaged in the distribution of natural gas in this state;
- One member who is a representative of the Department of Agriculture and Consumer Services' Office of Energy.
- One member who shall be chair.

**Additional Requirements:** All appointments shall be for terms of four years.

Required to file Form 1 with the Commission on Ethics.

**Notes:** Number 8 - Certified Electrical Contractor

The Florida Senate  
**COMMITTEE MEETING PACKET TAB**

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Ethics and Elections

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**MEETING DATE:** Wednesday, November 13, 2019

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**PLACE:** Pat Thomas Committee Room, 412 Knott Building

# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Freckleton, Lloyd J.

Appointed: 08/08/2019

Term: 08/08/2019 – 05/31/2023

Prior Term: 12/08/2016 - 05/31/2019

City/County: Flagler Beach/Flagler

Office: Board of Trustees of Daytona State College, Member

Authority: 1001.61(1)(2), F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)	X		See Below
7. Financial Disclosure Filed	X		Form 1 filed as of 6/17/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report		X	
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)	X		See Below
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

**Occupation:** Retired

**Attendance:** Attended 27 of 28 meetings (96%) from December 8, 2016 through October 7, 2019.

**Compensation:** Reimbursed for expenses as provided in s. 112.061, F.S., including mileage to and from official board meetings.

**Requirements:** Florida College System institution boards of trustees shall be appointed by the Governor and comprised of:

Five members when a Florida College System institution district is confined to one school board district.

Seven members when a Florida College System institution district is confined to one school board district and the board of trustees so elect.

Not more than nine members when the district contains two or more school board districts.

**Additional Requirements:** Trustees shall be appointed for terms of four (4) years and may be reappointed. Terms shall expire on May 31 of the year of expiration, or as soon thereafter as the successors shall be qualified to serve. Trustees shall reside in the college's designated counties pursuant to Section 1000.21(3), F.S. It is the duty of the chair to notify the Governor, in writing, when a board member fails to attend three consecutive regular board meetings in any one fiscal year; absences may be grounds for removal.

Required to file Form 1 with the SOE's office.

**Notes:** Number 6 - Mr. Freckleton served in the U.S. Army from 1968 to 2004 (active duty and reserve).  
Number 8 - Flagler County Resident  
Number 18 - Mr. Freckleton has served on the Daytona State College Board of Trustees since 6/2011.

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Ethics and Elections

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**MEETING DATE:** Wednesday, November 13, 2019

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# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Garrison, Samuel P.

Appointed: 08/26/2019

Term: 08/26/2019 – 05/31/2022

Prior Term:

City/County: Fleming Island/Clay

Office: Board of Trustees of St. Johns River State College, Member

Authority: 1001.61(1)(2), F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 5/29/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)	X		See Below
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)	X		See Below
19. Present or Past Government Employee	X		See Below
20. Currently a Registered Lobbyist		X	

**Occupation:** Attorney/Partner at Kopelousos, Bradley & Garrison, P.A.

**Compensation:** Reimbursed for expenses as provided in s. 112.061, F.S., including mileage to and from official board meetings.

**Requirements:** Florida College System institution boards of trustees shall be appointed by the Governor and comprised of:

Five members when a Florida College System institution district is confined to one school board district.

Seven members when a Florida College System institution district is confined to one school board district and the board of trustees so elect.

Not more than nine members when the district contains two or more school board districts.

**Additional Requirements:** Trustees shall be appointed for terms of four (4) years and may be reappointed. Terms shall expire on May 31 of the year of expiration, or as soon thereafter as the successors shall be qualified to serve. Trustees shall reside in the college's designated counties pursuant to Section 1000.21(3), F.S. It is the duty of the chair to notify the Governor, in writing, when a board member fails to attend three consecutive regular board meetings in any one fiscal year; absences may be grounds for removal.

Required to file Form 1 with the SOE's office.

**Notes:** Number 8 - Clay County Resident

Number 15 - Mr. Garrison disclosed that his law firm has provided contractual legal services to local government agencies and political subdivisions that included Baker County Commission, the Clay County School Board, the Town of Orange Park, the Crossings at Fleming Island Community Development District, and the Clay County Housing Finance Authority.

Number 18 - Mr. Garrison served on the St. Johns River College Board of Trustees from 5/17-5/18.

Number 19 - Mr. Garrison was the Assistant State Attorney for the 4th Judicial Circuit, 2001-2011.



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Ethics and Elections

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**MEETING DATE:** Wednesday, November 13, 2019

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**PLACE:** Pat Thomas Committee Room, 412 Knott Building

# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Cortes, Robert

Appointed: 08/29/2019

Term: 08/29/2018 – 05/31/2023

Prior Term:

City/County: Altamonte Springs/Seminole

Office: Board of Trustees of Seminole State College, Member

Authority: 1001.61(1)(2), F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 9/9/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)	X		See Below
19. Present or Past Government Employee	X		See Below
20. Currently a Registered Lobbyist		X	

**Occupation:** Senior Administrator, Seminole County Sheriff's Office; Co-Owner, Cortrans Shuttle Service

**Compensation:** Reimbursed for expenses as provided in s. 112.061, F.S., including mileage to and from official board meetings.

**Requirements:** Florida College System institution boards of trustees shall be appointed by the Governor and comprised of:

Five members when a Florida College System institution district is confined to one school board district.

Seven members when a Florida College System institution district is confined to one school board district and the board of trustees so elect.

Not more than nine members when the district contains two or more school board districts.

**Additional Requirements:** Trustees shall be appointed for terms of four (4) years and may be reappointed. Terms shall expire on May 31 of the year of expiration, or as soon thereafter as the successors shall be qualified to serve. Trustees shall reside in the college's designated counties pursuant to Section 1000.21(3), F.S. It is the duty of the chair to notify the Governor, in writing, when a board member fails to attend three consecutive regular board meetings in any one fiscal year; absences may be grounds for removal.

Required to file Form 1 with the SOE's office.

**Notes:** Number 8 - Seminole County Resident  
Number 18 - Mr. Cortes served as a Representative in the Florida House of Representatives, 11/2014-11/2018. Mr. Cortes served as a Commissioner for the City of Longwood, 11/2009-10/2014.  
Number 19 - Mr. Cortes is a senior administrator for the Seminole County Sheriff's Office, 1/2019-Present.

The Florida Senate  
**COMMITTEE MEETING PACKET TAB**

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Ethics and Elections

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**MEETING DATE:** Wednesday, November 13, 2019

**TIME:** 4:00—5:30 p.m.

**PLACE:** Pat Thomas Committee Room, 412 Knott Building

# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Davis, John F.

Appointed: 08/16/2019

Term: 08/16/2019 – 05/31/2022

Prior Term:

City/County: Orlando/Orange

Office: Board of Trustees of Valencia College, Member

Authority: 1001.61(1)(2), F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 8/27/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)	X		See Below
18. Previously a Public Officer (sworn statement)		X	
19. Present or Past Government Employee	X		See Below
20. Currently a Registered Lobbyist		X	

**Occupation:** Executive Vice President of the Orlando Regional Chamber of Commerce

**Compensation:** Reimbursed for expenses as provided in s. 112.061, F.S., including mileage to and from official board meetings.

**Requirements:** Florida College System institution boards of trustees shall be appointed by the Governor and comprised of:

Five members when a Florida College System institution district is confined to one school board district.

Seven members when a Florida College System institution district is confined to one school board district and the board of trustees so elect.

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**Additional Requirements:** Trustees shall be appointed for terms of four (4) years and may be reappointed. Terms shall expire on May 31 of the year of expiration, or as soon thereafter as the successors shall be qualified to serve. Trustees shall reside in the college's designated counties pursuant to Section 1000.21(3), F.S. It is the duty of the chair to notify the Governor, in writing, when a board member fails to attend three consecutive regular board meetings in any one fiscal year; absences may be grounds for removal.

Required to file Form 1 with the SOE's office.

**Notes:** Number 8 - Orange County Resident  
Number 17 - Mr. Davis serves on the Florida Commission on Community Service, 2018-Present.  
Number 19 - Mr. Davis was Director of External Affairs for the Department of Children and Families, 2011-2014. Mr. Davis was a Planning and Evaluation Specialist for the Department of State, 1995-1997.

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## Ethics and Elections

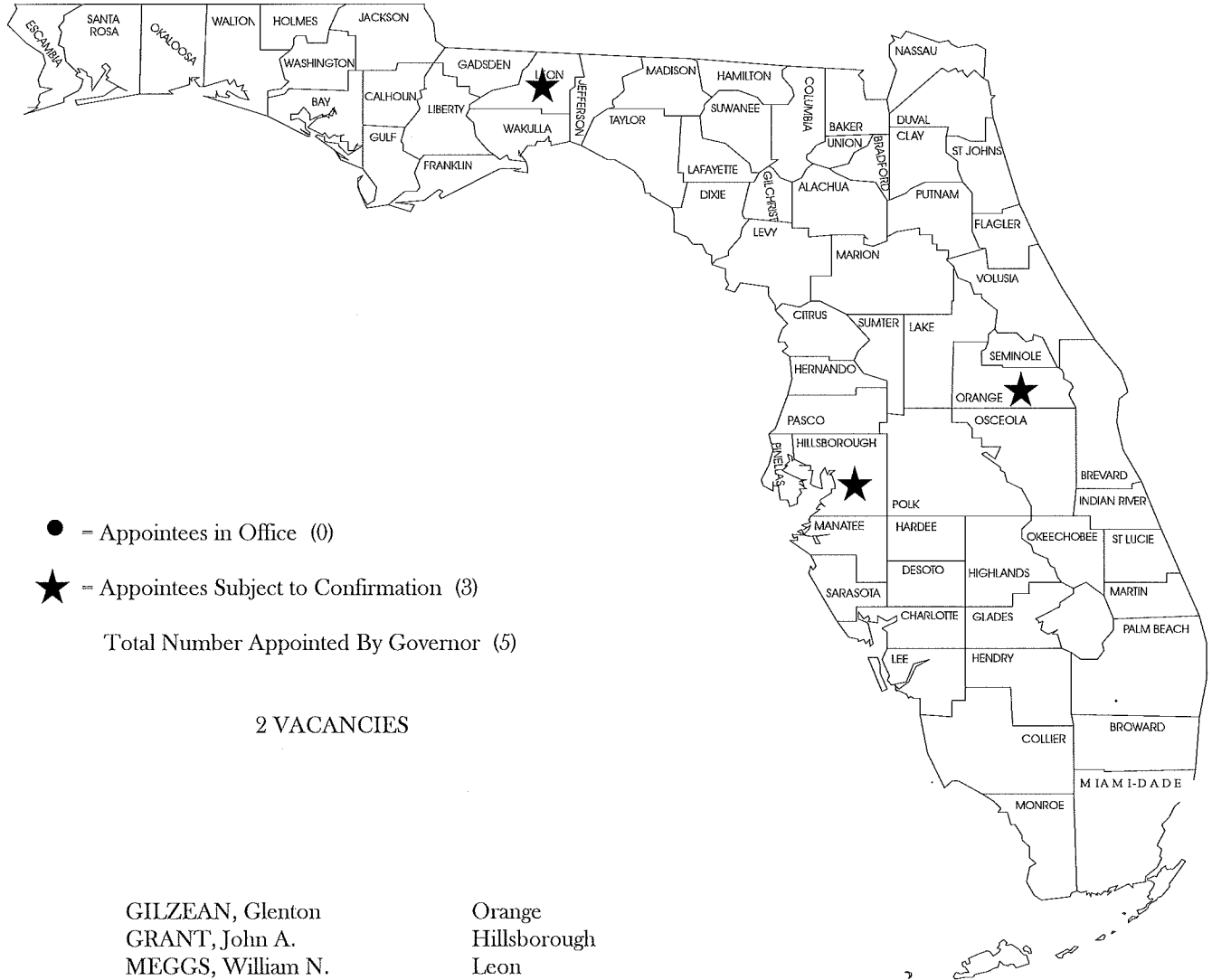
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**MEETING DATE:** Wednesday, November 13, 2019

**TIME:** 4:00—5:30 p.m.

**PLACE:** Pat Thomas Committee Room, 412 Knott Building

# Commission on Ethics





# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Gilzean, Glenton, Jr.  
 Term: 08/23/2019 – 06/30/2020

Appointed: 08/23/2019  
 Prior Term:

City/County: Ocoee/Orange  
 Office: Commission on Ethics, Member  
 Authority: 112.321(1), F.S. & s. 8(f), Art. II  
 Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)			Not Applicable
7. Financial Disclosure Filed	X		Form 1 filed as of 7/12/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)		X	
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)	X		See Below
19. Present or Past Government Employee	X		See Below
20. Currently a Registered Lobbyist		X	

**Occupation:** President, Central Florida Urban League

**Compensation:** Reimbursed for per diem and travel expenses pursuant to s. 112.061, F.S.

**Requirements:** The commission consists of nine persons, with the following requirements:

- Five members who are appointed by the Governor and confirmed by the Senate, no more than three of whom are from the same political party and one of whom is a former city or county official who may be a former member of a local planning or zoning board which has only advisory duties;
- Two members from different political parties appointed by the President of the Senate; and
- Two members from different political parties appointed by the Speaker of the House of Representatives.

Of the nine members of the Commission, no more than five members shall be from the same political party at any one time. No member may hold any public employment. An individual who qualifies as a lobbyist pursuant 11.045 or s. 112.3215 or pursuant to any local government charter or ordinance may not serve as a member of the commission. A member of the commission may not lobby any state or local governmental entity as provided in s. 11.045 or s. 112.3215 or as provided by any local government charter or ordinance. These prohibitions do not apply to an individual who is a member of the commission on July 1, 2006, until the expiration of his or her current term.

**Additional Requirements:** Terms are for two years. Members may not serve more than two full terms in succession. Any member may be removed for cause by majority vote of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court.

Required to file Form 1 with the Commission on Ethics.

**Notes:** Number 8 - Registered Republican  
Number 18 - Mr. Gilzean served as a Pinellas County School Board Member from 1/2012-11/2012. Mr. Gilzean served on the Board of Trustees, Florida A&M University, 2013-2014. Mr. Gilzean served on the 9th Judicial Nominating Commission, 2016-2019.  
Number 19 - Mr. Gilzean was a Regional Field Director for the Department of Education from 2006 to 2009.

The Florida Senate  
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Ethics and Elections

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A2305D

**MEETING DATE:** Wednesday, November 13, 2019

**TIME:** 4:00—5:30 p.m.

**PLACE:** Pat Thomas Committee Room, 412 Knott Building

# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Driver, G. Ray, Jr.

Appointed: 09/09/2019

Term: 09/09/2019 – 05/31/2023

Prior Term:

City/County: Jacksonville/Duval

Office: Jacksonville Transportation Authority, Member

Authority: 349.03(2), F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)	X		
7. Financial Disclosure Filed	X		Form 1 filed as of 10/9/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	See Below
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)	X		See Below
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)		X	
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

**Occupation:** Attorney/Partner at Driver, McAfee, Hawthorne & Diebenow

**Compensation:** Reimbursed for travel or other expenses actually incurred in performance of their duties, pursuant to s. 112.061, F.S., as provided by law.

**Requirements:** The seven-member authority consists of persons who are residents and electors of the City of Jacksonville as follows:

- Three members who are appointed by the Governor;
- Three members who are appointed by the mayor of the City of Jacksonville and are subject to confirmation by the Jacksonville City Council; and
- One member who is the district secretary of the Department of Transportation serving the district that contains the City of Jacksonville (who is not required to be a resident of Jacksonville).

**Additional Requirements:** Terms are for four years and commence on June 1 of the year of appointment and for the balance of unexpired terms.

A member appointed for two consecutive full terms shall not be eligible for appointment for the next succeeding term.

As of July 1, 2012, required to file Form 1 with COE's office.

**Notes:** Number 8 - Governor's Appointment

Number 9 - Mr. Driver disclosed that in 1991, he was charged and fined for having an open container and resisting arrest without violence in Jacksonville, FL. The FDLE report did not include this charge.

Number 15 - Mr. Driver disclosed he is a partner in a law firm that provides contract legal services to government entities.

# Recommendation for Senate Confirmation of Executive Appointment

Appointee: Jolly, Arezou C.

Appointed: 09/09/2019

Term: 09/09/2019 – 05/31/2022

Prior Term:

City/County: Jacksonville/Duval

Office: Jacksonville Transportation Authority, Member

Authority: 349.03(2), F.S.

Reference(s): Committee on Ethics and Elections

Executive Appointment Questionnaire	Yes	No	Notes
1. Questionnaire completed	X		
2. Questionnaire notarized	X		
3. US Citizen (sworn statement)	X		
4. Florida Resident (sworn statement)	X		
5. Registered Voter in Florida	X		
6. Honorable Discharge (sworn statement)	X		See Below
7. Financial Disclosure Filed	X		Form 1 filed as of 6/27/19
8. Meets Requirements of Law	X		See Below
9. Conviction Record		X	
10. Adverse Auditor General Report			Not Applicable
11. Adverse Ethics Commission Action		X	As of 10/16/19
12. Previously Suspended from Office		X	
13. Previously Refused Bond (sworn statement)		X	
14. Licenses or Certification Revoked/Suspended		X	
15. Contracts with State/Local Governments (sworn statement)	X		See Below
16. Contracts with Pending Office		X	
17. Holds Another Public Office (sworn statement)		X	
18. Previously a Public Officer (sworn statement)	X		See Below
19. Present or Past Government Employee		X	
20. Currently a Registered Lobbyist		X	

**Occupation:** Attorney, Florida Blue

**Compensation:** Reimbursed for travel or other expenses actually incurred in performance of their duties, pursuant to s. 112.061, F.S., as provided by law.

**Requirements:** The seven-member authority consists of persons who are residents and electors of the City of Jacksonville as follows:

- Three members who are appointed by the Governor;
- Three members who are appointed by the mayor of the City of Jacksonville and are subject to confirmation by the Jacksonville City Council; and
- One member who is the district secretary of the Department of Transportation serving the district that contains the City of Jacksonville (who is not required to be a resident of Jacksonville).

**Additional Requirements:** Terms are for four years and commence on June 1 of the year of appointment and for the balance of unexpired terms.

A member appointed for two consecutive full terms shall not be eligible for appointment for the next succeeding term.

As of July 1, 2012, required to file Form 1 with COE's office.

**Notes:** Number 6 - Mrs. Jolly served in the U.S. Navy, 1983-1990.  
Number 8 - Governor's Appointment  
Number 15 - Mrs. Jolly disclosed that her employer, Florida Blue, is a health insurer contract provider for the State.  
Number 18 - Mrs. Jolly served on the Jacksonville Transportation Authority from 2015-2019.

**back to Ethics Laws**

**Article II, Section 8**

**SECTION 8. Ethics in government.**-- A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

- (a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.
- (b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.
- (c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.
- (d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.
- (e) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.
- (f) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.
- (g) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.
- (h) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.
- (i) Schedule—On the effective date of this amendment and until changed by law:
  - (1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:
    - a. A copy of the person's most recent federal income tax return; or



b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (f), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also file disclosure of their financial interests pursuant to subsection (i)(1).

(3) The independent commission provided for in subsection (f) shall mean the Florida Commission on Ethics.

History.—Proposed by Initiative Petition filed with the Secretary of State July 29, 1976; adopted 1976; Ams. proposed by Constitution Revision Commission, Revision Nos. 8 and 13, 1998, filed with the Secretary of State May 5, 1998; adopted 1998; Am. proposed by Constitution Revision Commission, Revision No. 7, 2018, filed with the Secretary of State May 9, 2018; adopted 2018.

1Note.—Section 38, Art. XII, State Constitution, provides in part that “[t]he amendments to Section 8 of Article II and Section 13 of Article V shall take effect December 31, 2022; except that the amendments to Section 8(h) of Article II shall take effect December 31, 2020.” The amendments to s. 8, Art. II, which take effect December 31, 2022, include the addition of a new subsection (f), which will result in the redesignation of subsequent subsections. As a result, the amendment to s. 8(h), effective December 31, 2020, will apply to current s. 8(g), until the remaining amendments to s. 8, Art. II take effect and s. 8(g) is redesignated as s. 8(h). Effective December 31, 2022, s. 8, Art. II, except s. 8(g), which will take effect December 31, 2020, and will be subsequently redesignated as s. 8(h), Art. II by the amendment effective December 31, 2022, will read:

**SECTION 8. Ethics in government.**—A public office is a public trust. The people shall have the right to secure and sustain that trust against abuse. To assure this right:

(a) All elected constitutional officers and candidates for such offices and, as may be determined by law, other public officers, candidates, and employees shall file full and public disclosure of their financial interests.

(b) All elected public officers and candidates for such offices shall file full and public disclosure of their campaign finances.

(c) Any public officer or employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state for all financial benefits obtained by such actions. The manner of recovery and additional damages may be provided by law.

(d) Any public officer or employee who is convicted of a felony involving a breach of public trust shall be subject to forfeiture of rights and privileges under a public retirement system or pension plan in such manner as may be provided by law.

(e) No member of the legislature or statewide elected officer shall personally represent another person or entity for compensation before the government body or agency of which the individual was an officer or member for a period of two years following vacation of office. No member of the legislature shall personally represent another person or entity for compensation during term of office before any state agency other than judicial tribunals. Similar restrictions on other public officers and employees may be established by law.

(f)(1) For purposes of this subsection, the term “public officer” means a statewide elected officer, a member of the legislature, a county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, an elected special district officer in a special district with ad valorem taxing authority, or a person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government.

(2) A public officer shall not lobby for compensation on issues of policy, appropriations, or procurement before the federal government, the legislature, any state government body or agency, or any political subdivision of this state, during his or her term of office.

(3) A public officer shall not lobby for compensation on issues of policy, appropriations, or procurement for a period of six years after vacation of public position, as follows:

a. A statewide elected officer or member of the legislature shall not lobby the legislature or any state government body or agency.

b. A person serving as a secretary, an executive director, or other agency head of a department of the executive branch of state government shall not lobby the legislature, the governor, the executive office of the governor, members of the cabinet, a department that is headed by a member of the cabinet, or his or her former department.

c. A county commissioner, a county officer pursuant to Article VIII or county charter, a school board member, a superintendent of schools, an elected municipal officer, or an elected special district officer in a special district with ad valorem taxing authority shall not lobby his or her former agency or governing body.

(4) This subsection shall not be construed to prohibit a public officer from carrying out the duties of his or her public office.

(5) The legislature may enact legislation to implement this subsection, including, but not limited to, defining terms and providing penalties for violations. Any such law shall not contain provisions on any other subject.

(g) There shall be an independent commission to conduct investigations and make public reports on all complaints concerning breach of public trust by public officers or employees not within the jurisdiction of the judicial qualifications commission.

(h)(1) A code of ethics for all state employees and nonjudicial officers prohibiting conflict between public duty and private interests shall be prescribed by law.

(2) A public officer or public employee shall not abuse his or her public position in order to obtain a disproportionate benefit for himself or herself; his or her spouse, children, or employer; or for any business with which he or she contracts; in which he or she is an officer, a partner, a director, or a proprietor; or in which he or she owns an interest. The Florida Commission on Ethics shall, by rule in accordance with statutory procedures governing administrative rulemaking, define the term "disproportionate benefit" and prescribe the requisite intent for finding a violation of this prohibition for purposes of enforcing this paragraph. Appropriate penalties shall be prescribed by law.

(i) This section shall not be construed to limit disclosures and prohibitions which may be established by law to preserve the public trust and avoid conflicts between public duties and private interests.

(j) Schedule—On the effective date of this amendment and until changed by law:

(1) Full and public disclosure of financial interests shall mean filing with the custodian of state records by July 1 of each year a sworn statement showing net worth and identifying each asset and liability in excess of \$1,000 and its value together with one of the following:

a. A copy of the person's most recent federal income tax return; or

b. A sworn statement which identifies each separate source and amount of income which exceeds \$1,000. The forms for such source disclosure and the rules under which they are to be filed shall be prescribed by the independent commission established in subsection (g), and such rules shall include disclosure of secondary sources of income.

(2) Persons holding statewide elective offices shall also file disclosure of their financial interests pursuant to paragraph (1).

(3) The independent commission provided for in subsection (g) shall mean the Florida Commission on Ethics.

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**[back to Ethics Laws](http://ethics.state.fl.us/Documents/Ethics/ArticleIIsec8.html)**

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### **34-18.001 Scope and Applicability of Chapter.**

(1) The purpose of this chapter is to provide notice and guidance to public officers or public employees, as well as to the general public, regarding the definition of the term “disproportionate benefit,” as that term is used in Article II, Section 8(h)(2) of the Florida Constitution, as well as the requisite intent for finding a violation of the prohibition contained in Article II, Section 8(h)(2) of the Florida Constitution.

#### **(2) Definitions**

(a) For the purpose of Article II, Section 8(h)(2) of the Florida Constitution, “disproportionate benefit” means a benefit, privilege, exemption or result arising from an act or omission by a public officer or public employee inconsistent with the proper performance of his or her public duties.

(3) The Commission will consider the following in determining whether a benefit, privilege, exemption, or result constitutes a “disproportionate benefit”:

(a) The number of persons, besides the public officer or public employee, his or her spouse, children, employer, or business with which he or she contracts, in which he or she is an officer, a partner, a director, or a proprietor, or in which he or she owns an interest, who will experience the benefit, privilege, exemption, or result;

(b) The nature of the interests involved;

(c) The degree to which the interests of all those who will experience the benefit, privilege, exemption, or result are affected;

(d) The degree to which the public officer or public employee, his or her spouse, children, employer, or business with which he or she contracts, in which he or she is an officer, a partner, a director, or a proprietor, or in which he or she owns an interest, receives a greater or more advantageous benefit, privilege, exemption, or result when compared to others who will receive a benefit, privilege, exemption, or result;

(e) The degree to which there is uncertainty at the time of the abuse of public position as to whether there would be any benefit, privilege, exemption, or result, and, if so, the nature or degree of the benefit, privilege, exemption, or result must also be considered; and

(f) The degree to which the benefit, privilege, exemption, or result is not available to similarly situated persons. As used in this chapter, “similarly situated persons” means those with a commonality or like characteristic to the public officer or public employee that is unrelated to the holding of public office or public employment, or a commonality or like characteristic to the public officer’s or public employee’s spouse, children, or employer, or to any business with which the public officer or public employee contracts, serves as an officer, partner, director, or proprietor, or in which he or she owns an interest.

(4) The requisite intent for finding a violation of the prohibition in Article II, Section 8(h)(2) of the Florida Constitution is that the public officer or public employee acted, or refrained from acting, with a wrongful intent for the purpose of obtaining any benefit, privilege, exemption, or result from the act or omission which is inconsistent with the proper performance of his or her public duties.

*Rulemaking Authority Article II, Section 8(h)(2), Florida Constitution, 112.322(9) FS. Law Implemented Article II, Section 8(h)(2), Florida Constitution, 112.322(9) FS. History—New 9-30-19.*

# The Florida Senate

## 2019 Florida Statutes

<u>Title X</u> PUBLIC OFFICERS, EMPLOYEES, AND RECORDS	<u>Chapter 112</u> PUBLIC OFFICERS AND EMPLOYEES: GENERAL PROVISIONS  <u>Entire Chapter</u>	<b>SECTION 317</b> <b>Penalties.</b>
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### 112.317 Penalties.—

(1) Any violation of this part, including, but not limited to, failure to file disclosures required by this part or violation of any standard of conduct imposed by this part, or any violation of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, under applicable constitutional and statutory procedures, constitutes grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in his or her salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.

8. Public censure and reprimand.

(c) In the case of a candidate who violates this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed \$10,000.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.

(e) In the case of a person who is subject to the standards of this part, other than a lobbyist or lobbying firm under s. 112.3215 for a violation of s. 112.3215, but who is not a public officer or employee:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$10,000.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

(2) In any case in which the commission finds a violation of this part or of s. 8, Art. II of the State Constitution and the proper disciplinary official or body under s. 112.324 imposes a civil penalty or restitution penalty, the Attorney General shall bring a civil action to recover such penalty. No defense may be raised in the civil action to enforce the civil penalty or order of restitution that could have been raised by judicial review of the administrative findings and recommendations of the commission by certiorari to the district court of appeal. The Attorney General shall collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.

(3) The penalties prescribed in this part shall not be construed to limit or to conflict with:

- (a) The power of either house of the Legislature to discipline its own members or impeach a public officer.
- (b) The power of agencies to discipline officers or employees.

(4) Any violation of this part or of s. 8, Art. II of the State Constitution by a public officer constitutes malfeasance, misfeasance, or neglect of duty in office within the meaning of s. 7, Art. IV of the State Constitution.

(5) By order of the Governor, upon recommendation of the commission, any elected municipal officer who violates this part or s. 8, Art. II of the State Constitution may be suspended from office and the office filled by appointment for the period of suspension. The suspended officer may at any time before removal be reinstated by the Governor. The Senate may, in proceedings prescribed by law, remove from office, or reinstate, the suspended official, and for such purpose the Senate may be convened in special session by its President or by a majority of its membership.

(6) In any case in which the commission finds probable cause to believe that a complainant has committed perjury in regard to any document filed with, or any testimony given before, the commission, it shall refer such evidence to the appropriate law enforcement agency for prosecution and taxation of costs.

(7) In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney fees incurred in the defense of the person complained against, including the costs and reasonable attorney fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

*History.*—s. 7, ch. 67-469; s. 1, ch. 70-144; s. 2, ch. 74-176; s. 8, ch. 74-177; s. 2, ch. 75-199; s. 7, ch. 75-208; s. 5, ch. 82-98; s. 10, ch. 90-502; s. 10, ch. 91-85; s. 8, ch. 94-277; s. 1413, ch. 95-147; s. 1, ch. 95-354; s. 13, ch. 2000-151; s. 8, ch. 2006-275; s. 2, ch. 2009-126; s. 15, ch. 2013-36.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11-13-19  
Meeting Date

Bill Number (if applicable)

Topic Implementation of Amendment 12

Amendment Barcode (if applicable)

Name Charles Christopher ("Chris") Anderson, III

Job Title Executive Director Commission on Ethics

Address 325 John Knox Road Bldg E Ste 200 Phone (850) 488-7864

Street

Tallahassee  
City

FL  
State

32303  
Zip

Email Anderson.Chris@leg.state.fl.us

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Commission on Ethics

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

**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 Ethics and Elections

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BILL: SPB 7006

INTRODUCER: Ethics and Elections Committee

SUBJECT: Penalties for Violations of the Constitutional Prohibition Against Abuse of Public Position

DATE: November 13, 2019

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

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Mitchell</u>	<u>Roberts</u>	_____	<b>EE Submitted as Comm. Bill/Fav</b>

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## I. Summary:

SPB 7006 reenacts s. 112.317, F.S., which provides penalties for violations of the Florida Code of Ethics for Public Officers and Employees and for any violation of Article II, section 8 of the Florida Constitution.

The reenactment of s. 112.317, F.S., will make the section applicable to amendments to the Florida Constitution by Amendment 12 adopted in the 2018 general election. The amended constitutional language prohibits a public officer or public employee from abusing his or her public position in order to obtain a disproportionate benefit. Penalties under s. 112.317, F.S., include impeachment and removal from office, public censure and reprimand, a civil penalty not to exceed \$10,000, and restitution, among other punishments.

Amendment 12 provides that the abuse of public position prohibition takes effect on December 31, 2020. The amendment also requires the Legislature to enact implementing legislation establishing penalties for violations of the prohibition to take effect on the same day.

SPB 7006's reenactment of s. 112.317, F.S., effective December 31, 2020, makes the penalty provisions of the section applicable to the constitutional prohibition. This meets the requirement of the Amendment 12 schedule language.

## II. Present Situation:

### Implementation of Amendment 12, Lobbying and Abuse of Office by Public Officers

Amendment 12, sponsored by President Gaetz in the 2018 Constitution Revision Commission, was adopted during the 2018 election with 78.92% support.<sup>1</sup>

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<sup>1</sup> Div. of Elections, Fla. Dep't of State, *November 6, 2018 General Election*, available at <https://results.elections.myflorida.com/Index.asp?ElectionDate=11/6/2018&DATAMODE=> (last visited Nov. 11, 2019).

Effective December 31, 2022,<sup>2</sup> the amendment adds a new, more expansive, 6-year lobby ban on statewide elected officials, county elected officials, members of the Legislature, judges, elected special district officers, and executive agency heads. The Legislature may enact legislation to implement the ban, including defining terms and providing penalties for violations.<sup>3</sup> This part of Amendment 12 is not addressed by SPB 7006.

Effective December 31, 2020,<sup>4</sup> Amendment 12 also prohibits a public officer or public employee from abusing his or her public position in order to obtain a “disproportionate benefit.”

“Disproportionate benefit” may not be obtained by the public officer or public employee for:

- Himself or herself;
- His or her spouse, children, or employer; or
- For any business:
  - With which he or she contracts;
  - In which he or she is an officer, a partner, a director, or a proprietor; or
  - In which he or she owns an interest.<sup>5</sup>

Amendment 12 further provides that by October 1, 2019,<sup>6</sup> the Florida Commission on Ethics (Commission) is required, by rule in accordance with statutory procedures governing administrative rulemaking, to define “disproportionate benefit” and prescribe the requisite intent for finding a violation of the prohibition against abuse of public position.<sup>7</sup>

Following adoption of the Commission’s rules, Amendment 12 requires the Legislature to enact implementing legislation establishing penalties for violations of the prohibition against abuse of public position to take effect December 31, 2020.<sup>8</sup> SPB 7006 is proposed as the implementing legislation that establishes penalties for violations of the prohibition.

### **The Florida Commission on Ethics and the Imposition of Penalties for Ethics Violations**

Florida’s Constitution<sup>9</sup> and state law<sup>10</sup> provide that the Commission is the independent body charged with receiving and investigating sworn complaints involving Florida’s constitutional ethics provisions, as well as any other violation of the Florida Code of Ethics for Public Officers and Employees (Code of Ethics).<sup>11</sup> While the Commission receives and investigates sworn complaints, the Commission does not have the authority to impose punishment for an ethics violation. Instead, whenever the Commission finds that an ethics violation has occurred, the Commission is required to submit its findings, along with a recommended penalty, to the statutorily designated official who may impose punishment.<sup>12</sup> The Commission must make such submission to the Senate President or Speaker of the House, whichever is applicable, in any case

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<sup>2</sup> FLA. CONST. art. XII, s. 38.

<sup>3</sup> FLA. CONST. art. II, s. 8. See Note.

<sup>4</sup> FLA. CONST. art. XII, s. 38.

<sup>5</sup> FLA. CONST. art. II, s. 8. See Note.

<sup>6</sup> FLA. CONST. art. XII, s. 38.

<sup>7</sup> FLA. CONST. art. II, s. 8. See Note.

<sup>8</sup> FLA. CONST. art. XII, s. 38.

<sup>9</sup> FLA. CONST. art. II, s. 8(i)(3).

<sup>10</sup> Section 112.320, F.S.

<sup>11</sup> Part III (ss. 112.311 – 112.3261), ch. 112, F.S.

<sup>12</sup> Section 112.324, F.S.



concerning a former legislator who is alleged to have violated a provision applicable to former legislators or whose alleged conduct occurred while a member of the Legislature. In the case of a former statewide elected officer, the Commission is required to make such submission to the Governor.<sup>13</sup>

### **Penalties for Violations of the Florida Code of Ethics for Public Officers and Employees**

Section 112.317, F.S., provides penalties for violations of the Code of Ethics. In addition to any criminal or other civil penalties that may be applicable, violations of the Code of Ethics, including any violation of Article II, section 8 of The Florida Constitution, may be punished by, one or more of the following:

- In the case of a public officer:
  - Impeachment.
  - Removal from office.
  - Suspension from office.
  - Public censure and reprimand.
  - Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
  - A civil penalty not to exceed \$10,000.
  - Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.
- In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:
  - Dismissal from employment.
  - Suspension from employment for not more than 90 days without pay.
  - Demotion.
  - Reduction in his or her salary level.
  - Forfeiture of no more than one-third salary per month for no more than 12 months.
  - A civil penalty not to exceed \$10,000.
  - Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.
  - Public censure and reprimand.
- In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:
  - Public censure and reprimand.
  - A civil penalty not to exceed \$10,000.
  - Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.<sup>14</sup>

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<sup>13</sup> Id.

<sup>14</sup> Section 112.317(1), F.S.

The Attorney General must bring a civil action to recover a civil or restitution penalty imposed by the proper disciplinary official or body under s. 112.324, F.S., in any case in which the Commission finds a violation of the Code of Ethics or of Article II, section 8 of the Florida Constitution. The Attorney General must collect any costs, attorney fees, expert witness fees, or other costs of collection incurred in bringing the action.<sup>15</sup>

A violation of the Code of Ethics or of Article II, section 8 of the Florida Constitution by a public officer constitutes malfeasance, misfeasance, or neglect of duty in office within the meaning of Article IV, section 7 of the Florida Constitution.<sup>16</sup>

Section 112.317, F.S., was last amended in 2013. Prohibitions or violations adopted or enacted after the last enactment of the section are not governed by its penalty provisions until a subsequent reenactment of the section.

### **Rulemaking by the Florida Commission on Ethics**

The Commission has adopted Rule 34-18.001 of the Florida Administrative Code, effective September 30, 2019. The rule defines the term “disproportionate benefit” and prescribes the requisite intent for finding a violation of the prohibition against abuse of public position by a public officer or public employee in order to obtain a disproportionate benefit, both required by Amendment 12.

The rule defines “disproportionate benefit” as a benefit, privilege, exemption or result arising from an act or omission by a public officer or public employee inconsistent with the proper performance of his or her public duties.<sup>17</sup>

The rule prescribes that the public officer or public employee acted, or refrained from acting, with the requisite intent for finding a violation of the prohibition against abuse of public position if the public officer or public employee acted, or refrained from acting, with a wrongful intent for the purpose of obtaining any benefit, privilege, exemption, or result from the act or omission which is inconsistent with the proper performance of his or her public duties.<sup>18</sup>

### **III. Effect of Proposed Changes:**

SPB 7006 reenacts s. 112.317, F.S., the statutory section in the Code of Ethics<sup>19</sup> that provides penalties for violations of the Code of Ethics and for any violation of Article II, section 8 of the Florida Constitution.<sup>20</sup>

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<sup>15</sup> Section 112.317(2), F.S.

<sup>16</sup> Section 112.317(4), F.S.

<sup>17</sup> Fla. Admin. Code R. 34-18.001(2)(2019).

<sup>18</sup> Fla. Admin. Code R. 34-18.001(4)(2019).

<sup>19</sup> Part III (ss. 112.311 – 112.3261), ch. 112, F.S.

<sup>20</sup> Section 112.317(1), F.S.

The reenactment of s. 112.317, F.S., will make the penalty provisions of the section applicable to Article II, section 8, subsection (h), paragraph (2) of the Florida Constitution, as amended by Amendment 12 adopted in the 2018 general election.<sup>21</sup> The amended language provides that:

A public officer or public employee shall not abuse his or her public position in order to obtain a disproportionate benefit for himself or herself; his or her spouse, children, or employer; or for any business with which he or she contracts; in which he or she is an officer, a partner, a director, or a proprietor; or in which he or she owns an interest.<sup>22</sup>

The amendment also requires appropriate penalties to be prescribed by law.<sup>23</sup> The enactment of this bill will apply the penalty provisions of s. 112.317, F.S., to violations of the prohibition against abuse of public position in Amendment 12.

Schedule language in Amendment 12 provides that the amendments to Article II, Section 8(h) of the Florida Constitution take effect December 31, 2020.<sup>24</sup> The language requires the Florida Commission on Ethics by rule to define the term “disproportionate benefit” and prescribe the requisite intent for finding a violation of the prohibition against abuse of public position by October 1, 2019.<sup>25</sup> Amendment 12 language also provides that following the adoption of these rules by the Commission, the Legislature must enact implementing legislation establishing penalties for violations of the prohibition against abuse of public position to take effect December 31, 2020.<sup>26</sup>

The effective date of SPB 7006 is December 31, 2020. The bill’s reenactment of s. 112.317, F.S., effective December 31, 2020, makes the penalty provisions of the section applicable to the amended provisions of Article II, section 8, subsection (h) of the Florida Constitution that take effect the same day and follow the adoption of Rule 34-18.001 of the Florida Administrative Code by the Commission, effective September 30, 2019. This meets the requirement of the Amendment 12 schedule language.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to affect county or municipal governments.

##### **B. Public Records/Open Meetings Issues:**

None.

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<sup>21</sup> After these amendatory provisions become effective on December 31, 2020, this reference will be “Article II, section 8, subsection (g), paragraph (2)” until other amendments to s. 8, Art. II take effect December 31, 2022, after which the subsection designation will be (h).

<sup>22</sup> FLA. CONST. art. II, s. 8. See Note.

<sup>23</sup> Id.

<sup>24</sup> FLA. CONST. art. XII, s. 38.

<sup>25</sup> Id.

<sup>26</sup> Id.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**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. Statutes Affected:**

This bill reenacts section 112.317 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.

FOR CONSIDERATION By the Committee on Ethics and Elections

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A bill to be entitled

An act relating to penalties for violations of the constitutional prohibition against abuse of public position; reenacting s. 112.317, F.S., relating to penalties; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. For the purpose of implementing the amendment to s. 8, Article II of the State Constitution and the creation of s. 38, Article XII of the State Constitution, as adopted in Amendment 12 in the 2018 general election, and specifying the applicable penalties for violations of the prohibition against abuse of public position, section 112.317, Florida Statutes, is reenacted.

Section 2. This act shall take effect December 31, 2020.

# CourtSmart Tag Report

Room: KN 412 Case No.:  
Caption: Senate Ethics and Elections Committee

Type:  
Judge:

Started: 11/13/2019 4:02:20 PM  
Ends: 11/13/2019 4:26:42 PM Length: 00:24:23

4:02:19 PM Meeting called to order  
4:02:28 PM Roll Call - Quorum is present  
4:02:41 PM Comments from Chair  
4:02:55 PM Directions for meeting and confirmations on appointments  
4:03:10 PM Tabs 1-7 Exec. Appts.  
4:03:32 PM One vote for all appointments  
4:03:39 PM Senator Powell  
4:04:04 PM Chair  
4:04:17 PM Questions on Tabs 1-7? None  
4:04:24 PM Appearance forms? None  
4:04:28 PM Motion by Senator Passidomo to move confirmation on Tabs 1-7  
4:04:48 PM Chair  
4:04:54 PM Roll Call on Tabs 1-7 - Recommended favorable for Confirmation  
4:05:16 PM Tab 8 - Lobbying and Abuse of Office by Public Officers  
4:05:17 PM Presentation by Chris Anderson, Executive Director, The Florida Commission on Ethics, on the implementation of Amendment 12  
4:10:22 PM Questions?  
4:10:44 PM Senator Rodriguez  
4:11:03 PM Chair  
4:11:37 PM Chris Anderson  
4:13:23 PM Chair  
4:13:24 PM Senator Rodriguez  
4:14:10 PM Chris Anderson  
4:15:38 PM Senator Powell  
4:17:00 PM Chris Anderson  
4:19:46 PM Questions? None  
4:19:51 PM Discussion? None  
4:19:59 PM Chair  
4:20:02 PM Tab 9 - Consideration of Proposed Bill: SPB 7006 by Ethics and Elections Committee -- Penalties for Violations of the Constitutional Prohibition Against Abuse of Public Position; Reenacting provisions relating to penalties, etc.  
4:20:26 PM Dawn Roberts, Staff Director, to explain the committee bill  
4:21:54 PM Questions? None  
4:21:58 PM Appearance? None  
4:22:04 PM Debate?  
4:22:09 PM Senator Powell  
4:23:41 PM Chair  
4:24:00 PM Dawn Roberts  
4:25:01 PM Chair  
4:25:13 PM Senator Diaz moves that SPB 7006 be submitted as a committee bill  
4:25:21 PM Roll Call on SPB 7006 - Favorable to submit and report as committee bill  
4:25:59 PM Favorable Motion for Senator Diaz to vote "yea" after on confirmation for Tabs 1-7  
4:26:07 PM Favorable Motion for Senator Braynon to vote "yea" after on confirmation for Tabs 1-7  
4:26:21 PM Any other business? Senator Diaz moves to adjourn. Seeing no objections, we are adjourned.