

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Fasano offered the following:

Amendment (with title amendment)

Remove lines 1176-1299 and insert:

Section 15. Section 112.317, Florida Statutes, is amended to read:

112.317 Penalties.—

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

726931

Amendment No.

17 (a) In the case of a public officer:

18 1. Impeachment.

19 2. Removal from office.

20 3. Suspension from office.

21 4. Public censure and reprimand.

22 5. Forfeiture of up to no more than one-third of his or
23 her salary per month for up to no more than 12 months.

24 6. A civil penalty of up to \$100,000 ~~not to exceed~~
25 ~~\$10,000~~.

26 7. Restitution of any pecuniary benefits received because
27 of the violation committed. The commission may recommend that
28 the restitution penalty be paid to the agency of which the
29 public officer was a member or to the General Revenue Fund.

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

33 1. Dismissal from employment.

34 2. Suspension from employment for up to ~~not more than~~ 90
35 days without pay.

36 3. Demotion.

37 4. Reduction in his or her salary level.

38 5. Forfeiture of up to no more than one-third salary per
39 month for no more than 12 months.

40 6. A civil penalty of up to \$100,000 ~~not to exceed~~
41 ~~\$10,000~~.

42 7. Restitution of any pecuniary benefits received because
43 of the violation committed. The commission may recommend that
44 the restitution penalty be paid to the agency of ~~by which~~ the

726931

Approved For Filing: 4/23/2013 1:39:51 PM

Amendment No.

45 public employee ~~was employed~~, or of ~~which~~ the officer who
46 employed the ~~was deemed to be an~~ employee, or to the General
47 Revenue Fund.

48 8. Public censure and reprimand.

49 (c) In the case of a candidate who violates ~~the provisions~~
50 ~~of~~ this part or s. 8(a) and (i), Art. II of the State

51 Constitution:

52 1. Disqualification from being on the ballot.

53 2. Public censure.

54 3. Reprimand.

55 4. A civil penalty of up to \$100,000 ~~not to exceed~~
56 ~~\$10,000~~.

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

61 1. Public censure and reprimand.

62 2. A civil penalty of up to \$100,000 ~~not to exceed~~
63 ~~\$10,000~~.

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

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

72 1. Public censure and reprimand.

726931

Approved For Filing: 4/23/2013 1:39:51 PM

Amendment No.

73 2. A civil penalty not to exceed \$100,000 ~~\$10,000~~.

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

78 (2) A person who knowingly fails to file a disclosure
79 required by this part within 90 days after the specified date
80 commits a misdemeanor of the first degree, punishable as
81 provided in s. 775.082 or s. 775.083.

82 (3)(2) In any case in which the commission finds a
83 violation of this part or of s. 8, Art. II of the State
84 Constitution and the proper disciplinary official or body under
85 s. 112.324 imposes a civil penalty or restitution penalty, the
86 Attorney General shall bring a civil action to recover such
87 penalty. A ~~No~~ defense may not be raised in the civil action to
88 enforce the civil penalty or order of restitution which ~~that~~
89 could have been raised by judicial review of the administrative
90 findings and recommendations of the commission by certiorari to
91 the district court of appeal. The Attorney General shall collect
92 any costs, attorney's fees, expert witness fees, or other costs
93 of collection incurred in bringing the action.

94 (4)(3) The penalties prescribed in this part do ~~shall~~ not
95 ~~be construed to~~ limit or ~~to~~ conflict with:

96 (a) The power of either house of the Legislature to
97 discipline its own members or impeach a public officer.

98 (b) The power of agencies to discipline officers or
99 employees.

Amendment No.

100 (5)~~(4)~~ Any violation of this part or of s. 8, Art. II of
101 the State Constitution by a public officer constitutes ~~shall~~
102 ~~constitute~~ malfeasance, misfeasance, or neglect of duty in
103 office within the meaning of s. 7, Art. IV of the State
104 Constitution.

105 (6)~~(5)~~ By order of the Governor, upon recommendation of
106 the commission, any elected municipal officer who violates ~~any~~
107 ~~provision of~~ this part or ~~of~~ s. 8, Art. II of the State
108 Constitution may be suspended from office and the office filled
109 by appointment for the period of suspension. The suspended
110 officer may at any time before removal be reinstated by the
111 Governor. The Senate may, in proceedings prescribed by law,
112 remove from office, or reinstate, the suspended officer
113 ~~official~~, and for such purpose the Senate may be convened in
114 special session by its President or by a majority of its
115 membership.

116 (7)~~(6)~~ In any case in which the commission finds probable
117 cause to believe that a complainant has committed perjury in
118 regard to any document filed with, or any testimony given
119 before, the commission, it shall refer such evidence to the
120 appropriate law enforcement agency for prosecution and taxation
121 of costs.

122 (8)~~(7)~~ ~~If In any case in which~~ the commission determines
123 that a person has filed a complaint against a public officer or
124 employee with actual malice ~~a malicious intent to injure the~~
125 ~~reputation of such officer or employee by filing the complaint~~
126 ~~with knowledge that the complaint contains one or more false~~
127 ~~allegations or with reckless disregard for whether the complaint~~

726931

Approved For Filing: 4/23/2013 1:39:51 PM

Amendment No.

128 ~~contains false allegations of fact material to a violation of~~
129 ~~this part,~~ the complainant is ~~shall be~~ liable for costs plus
130 reasonable attorney ~~attorney's~~ fees incurred in the defense of
131 the person complained against, including the costs and
132 reasonable attorney ~~attorney's~~ fees incurred in proving
133 entitlement to and the amount of costs and fees. If the
134 complainant fails to pay such costs and fees voluntarily within
135 30 days following such finding by the commission, the commission
136 shall forward such information to the Department of Legal
137 Affairs, which shall bring a civil action ~~in a court of~~
138 ~~competent jurisdiction~~ to recover the amount of such costs and
139 fees ~~awarded by the commission.~~

140

141

142

T I T L E A M E N D M E N T

143

Remove line 182 and insert:

144

making technical changes; revising the civil penalties

145

that may be imposed for violations of ch. 112, F.S.;

146

providing criminal penalties for a person who

147

knowingly fails to file the required disclosure of

148

documents by a specified date; providing that a person

149

who files a complaint with actual malice against a

150

public officer is liable for costs and attorney fees;

151

amending s. 112.3215, F.S.;