

STORAGE NAME: h1643a.go
DATE: March 30, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
ANALYSIS**

BILL #: HB 1643
RELATING TO: Ethics
SPONSOR(S): Representative Logan
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) GOVERNMENTAL OPERATIONS YEAS 6 NAYS 0
 - (2) CRIME & PUNISHMENT
 - (3) RULES & CALENDAR
 - (4) CRIMINAL JUSTICE APPROPRIATIONS
 - (5)
-

I. SUMMARY:

This bill contains substantial changes to Florida's Code of Ethics, many in the area of both full and limited financial disclosure. This bill extends the prohibition against the use of certain confidential public information; transfers filing and administration of financial disclosures from the Secretary of State to the Commission on Ethics ("commission"); establishes an automatic fine system for delinquent filers; requires former officers and employees to file a final disclosure within 60 days of leaving office; requires the Commission on Ethics to develop procedures for amendment of financial disclosure statements; revises the reporting requirements for limited disclosure of financial interests; establishes a reimbursement deadline for the valuation and reporting of gifts; extends gift reporting to nonincumbents elected but not in office; authorizes the Attorney General to bring suit for reimbursement for collection of civil penalties; extends witness-tampering laws to the proceedings before the Commission on Ethics; clarifies that the Code of Judicial Conduct governs reporting of gifts for Judges of Compensation Claims; and authorizes the Commission on Ethics to seek immunity for certain witnesses.

This bill substantially amends the following sections of the Florida Statutes: 112.312(12), 112.313(8), 112.3144, 112.3145, 112.3148, 112.3149(6), 112.317, 112.324(3), 914.21, and 440.442(6). This bill also repeals ss. 112.3151, 112.322(9), 839.08, 839.09, 839.091, and 839.10, F.S. Finally, this bill creates s. 112.3232, F.S.

This bill appropriates \$193,950 from the General Revenue Fund to the Commission on Ethics to administer the responsibilities put on it by this act.

This bill provides an effective date of January 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Although this bill is designed to allow greater control and oversight over financial disclosures, it temporarily creates more government by switching the filings from the Secretary of State's office to the Commission on Ethics. This will require the entire administration of the financial disclosure filing system to be created in the Commission on Ethics. This bill does, however, create an automatic fine system as well as more efficient filing requirements, which may result in a reduction in government.

B. PRESENT SITUATION:

The Code of Ethics for Public Officers and Employees is found in Part III of Chapter 112, F.S. The ethics laws are intended to promote the public interest and maintain the respect of people for their government. To protect against conflicts of interest, the Code establishes standards of conduct for elected officials and government employees.

In Florida, all elected constitutional officers and candidates for such offices are required to file a full and public financial disclosure pursuant to Art. II, s. 8, Fla. Const., and s. 112.3144, F.S. "Local officers," "specified state employees," and "state officers," as defined by statute, are required to file limited disclosures pursuant to s. 112.3145, F.S. One group *not required to file* under current law is former officers and employees. This includes persons whose office or employment ends prior to December 31 of a given calendar year. Critics have called this a "major loophole" in the financial disclosure law.

Officers required to file a full and public disclosure, and state officers and specified state employees required to file limited disclosure, must file with the Secretary of State's office. Local officers are required to file a limited disclosure with their local supervisor of elections. The deadline for filing is July 1 of each year. By June 1, the Secretary of State or the supervisor of elections must mail a copy of the appropriate form and instructions to each person required to make a disclosure. A certified notice of delinquency will be sent by August 1 and an extended grace period for filing is available through September 1. The commission is authorized to grant extensions of time for filing beyond this date on an individual, good cause basis.

If someone who is subject to financial disclosure fails to file by September 1 and is not granted an extension by the commission, it is a violation of the Code of Ethics and *only upon receipt of a complaint* may the Commission on Ethics investigate and determine such a violation and recommend a penalty. There is no automatic or other penalty associated

STORAGE NAME: h1643a.go

DATE: March 30, 2000

PAGE 3

with failure to file or late filing in the absence of a complaint. If a complaint is filed and a person is found to have violated the Code, the commission may recommend any one of a series of penalties pursuant to s. 112.317, F.S., which range from a civil penalty to removal or impeachment. Florida law does not provide for amending a financial disclosure form.

In 1998, over seven percent of those required to file full or limited disclosure (3,116 out of 41,996) filed after the September 1 deadline or did not file at all. In addition, only 104 of the complaints filed were found to be legally sufficient -- with only 3 relating to full financial disclosure and 22 to limited financial disclosure.

By November 1 of each year, the commission must provide the Department of Community Affairs with a list of names of special district local officers delinquent in their financial disclosure pursuant to s. 112.322(9), F.S. However, the Department is not authorized to take any action with the list of delinquent filers.

All elected constitutional officers, state officers, local officers, and specified state employees must file a quarterly report with the names of clients represented for a fee or commission before agencies at their level of government. The report is due 15 days after the last day of the quarter pursuant to s. 112.3145, F.S.

Florida's Code of Ethics prohibits a reporting individual from accepting a gift from a lobbyist or principal valued at more than \$100, s. 112.3148(4), F.S. Most gifts valued at more than \$100 must be reported in the quarter following receipt of the gift pursuant to s. 112.3148(8)(a), F.S. In determining the value of the gift, any compensation reimbursed to the donor may be deducted pursuant to s. 112.3148(7)(b), F.S. However, there is no deadline as to when the compensation must be made or received.

Gifts are calculated as follows (s. 112.3148(7)(a), F.S.):

- As the actual cost to the donor, less taxes and gratuities; and
- With respect to personal services provided by the donor, the reasonable and customary charge that is regularly charged in the community in which the service is provided.

There is an exemption for certain governmental entities from the prohibition of giving a gift having a value in excess of \$100 to a reporting individual if a public purpose can be shown for the gift, s. 112.3148(6)(a), F.S.

The Commission on Ethics may investigate only upon receipt of a sworn complaint, but once the complaint is filed, the commission has a wide array of investigatory powers, s. 112.324, F.S. However, witness tampering statutes do not apply to commission proceedings, and there is no mechanism in the Florida statutes authorizing the commission to seek a grant of immunity when a witness refuses to talk because of possible self-incrimination.

Once it has been determined that there has been an ethics violation, the Attorney General may bring suit to collect unpaid civil or restitution penalties, but not for the costs or fees involved in bringing the suit for recovery (s.112.317, F.S.). Any restitution received is currently deposited in the General Revenue Fund of the state.

C. EFFECT OF PROPOSED CHANGES:

On December 15, 1999, the Public Corruption Study Commission (PCSC) submitted its report to the Governor. The fifteen member commission was created to complete a comprehensive review of the current laws, policies, and procedures related to Florida's response to public corruption. The report included the analysis of the state of Florida's public corruption laws as well as the PCSC's proposed legislation.

The commission reviewed a variety of ethics issues and ethics laws, however, this bill deals primarily with the increased enforcement of ethics laws, more stringent financial disclosure and gift laws, and other various loopholes in ethics laws.

In 2003, the Cabinet office of the Secretary of State will be abolished. In anticipation of this change, the past two Secretaries have asked the Legislature to transfer the responsibility of maintaining financial disclosure filings to the Commission on Ethics. This bill follows this recommendation and requires all forms and filings to be filed at the Commission on Ethics.

Please refer to "D. Section-by-Section Analysis" below for a more in-depth analysis of the proposed changes of HB 1643.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 In response to concerns about the procedure regarding valuation of gifts, this bill amends s. 112.312, F.S., regarding the definition of a gift and the consideration for gifts. The PCSC recommended that the gift law be amended to require "equal or greater consideration" to be given within a defined time period, if not contemporaneously with the gift. The PCSC recommended following the deadlines for quarterly financial disclosure statements and requiring that the consideration should be paid within that 90 days or the gift should be reported within that quarter. This bill amends s. 112.312(12)(a), F.S., and requires that consideration for a gift must be paid within 90 days or the gift must be reported on the donee's financial disclosure statement. In addition, it defines "consideration" as not including a promise to pay or otherwise provide something of value unless that promise is in writing and can be enforced through the courts.

Section 2 The PCSC addressed the many loopholes in the ethics laws. These laws are strictly construed because they are penal in nature and ambiguities in the statutes will be construed in favor of the public official. Because of this, the PCSC recommends that ethics laws be rewritten to address these ambiguities. The "inside information" prohibition of s. 112.313(8), F.S., applies to public officers and employees and prohibits their using or disclosing information that is gained through their official position and that is not available to the general public for their personal gain or benefit. Because this statute does not cover situations where a person leaves public office or employment and then uses the information for personal gain, this bill amends s. 112.318(8), F.S., and prohibits any current or former public officer, employee of an agency, or local government attorney from disclosing or using information gained by reason of his or her official position for personal gain. This bill exempts from prohibition any information relating exclusively to governmental practices or procedures.

Section 3 This bill amends s. 112.3144, F.S., and requires all full and public financial disclosure statements to be filed with the Commission on Ethics, not the Secretary of State's office.

The PCSC recommended a "parking ticket" approach to impose a per day fine (up to a maximum). Because the majority of these fines would be small, the unpaid fines would be more efficiently collected by referral to a collection agency. This bill creates a \$25 fine for each day a full and public disclosure is not filed after September 1; up to a maximum penalty of \$1,500. If the commission, upon sworn complaint, finds that the person has failed to timely file the statement within 60 days after September 1, that person may also be subject to the penalties provided in s. 112.317, F.S.

To implement notification of the failure to timely file, the commission shall provide a procedure by which each person whose name is on the mailing list and who is determined not to have filed in a timely manner will be notified of assessed fines.

The rule must provide for the following:

1. The amount of the fine due is based on the earliest of the following:
 - when a statement is actually received by the office;
 - when the statement is postmarked;
 - when the certificate of mailing is dated; or
 - when the receipt from an established courier company is dated.
2. Upon receipt of the disclosure statement, or upon accrual of the maximum penalty, whichever occurs first, the commission shall determine the amount of the fine and shall notify the delinquent person. The notice must include an explanation of the appeal procedure. The fine must be paid within 30 days after the notice of payment due, unless the fine is appealed. The penalty shall be deposited in the General Revenue Fund.
3. Any reporting person may appeal or dispute a fine based upon unusual circumstances surrounding the failure to file on the due date and may request a hearing before the commission. The commission may waive the fine in whole or in part for good cause shown. The request must be made within 30 days after the notice of payment due is transmitted and the reporting person must notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

Those who are required to file full and public disclosure but who are not on the commission's notification list are not subject to the fines or penalties provided in this part but are still required to file the disclosure statement. In addition, the notification requirements and fines do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person is on the commission's notification list and the person received notification. The notification requirements and fines of this subsection do not apply to the final filing statement.

This bill clarifies the due date of the filings. A financial disclosure statement must be filed no later than 5 p.m. on the due date, unless it is postmarked by the United States Postal Service (USPS) by midnight of the due date and a

certificate of mailing is obtained from and dated by the USPS. In addition, a receipt from an established courier company bearing a date on or before the due date also constitutes proof of mailing in a timely manner.

The PCSC addressed the current law that does not require filing a disclosure statement covering the last months of a term of office or employment. This bill amends s. 112.3114, F.S., and creates s. 112.3144(5), F.S., requiring each person filing full and public disclosure to file a final disclosure statement within 60 days after leaving his or her public position. This bill allows an exemption to this requirement in the instance the person required to file takes another public position requiring disclosure or is otherwise required to file a full and public disclosure for the final disclosure period.

In addition, the Commission on Ethics does not have the authority to do anything regarding a late filing unless a sworn complaint is filed. This bill amends s. 112.3144, F.S., and grants the Commission on Ethics the authority to notify those who have not timely filed and to develop a procedure for the appeal of fines. If a fine remains unpaid for more than 60 days after the notice of payment due or 60 days after the commission renders a final order, the fine must be submitted to the Department of Banking and Finance as a claim, debt, or other obligation owed to the state.

There is currently no established method in Florida law for amending one's financial disclosure form. This bill authorizes the commission to adopt rules and forms regarding how a person who is required to file full and public disclosure may amend his or her statement. If the amendment is the subject of a complaint, the commission and the proper disciplinary official or body shall consider it a mitigating factor, while also recognizing that the public was deprived of access to information to which it was entitled.

Section 4 This section amends s. 112.3145, F.S., regarding the disclosure of financial interests and clients represented before agencies. The categories of who has to file a Form 1, limited financial disclosure statement, is unclear and the PCSC recommends reviewing these categories especially as they relate to solely advisory positions. This bill redefines "local officer" and includes the following:

- Every person who is elected to office in any political subdivision of the state, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office.
- Any appointed member of any of the following boards, councils, commissions, authorities, or other bodies of any county, municipality, school district, independent special district, or other political subdivision of the state:
 - the governing body of the political subdivision, if appointed;
 - an expressway authority or transportation authority established by general law;
 - a community college or junior college district board of trustees;
 - a board having the power to enforce local code provisions;
 - a planning or zoning board, board of adjustment, board of appeals, or other board having the power to recommend, create, or modify land planning or zoning

- within the political subdivision, except for citizen advisory committees, technical coordinating committees, and such other groups who only have the power to make recommendations to planning or zoning boards;
- a pension board or retirement board having the power to invest pension or retirement funds or the power to make a binding determination of one's entitlement to or amount of a pension or other retirement benefit; or
- any other appointed member of a local government board who is required to file a statement of financial interest by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.
- The remaining positions as required by s. 112.3145(1)(a)(3), F.S.

This bill requires each former state or local officer or other specified state employee to file a final financial disclosure statement within 60 days of leaving his or her public position, unless that person takes another public position requiring disclosure or is otherwise required to file a full and public disclosure for the final reporting period.

Form 1 (limited financial disclosure) uses percentage thresholds to determine what income (exceeding 5% of gross income), secondary sources of income (exceeding 10% of gross income of business from which official received more than 10% of his or her gross income), intangibles (exceeding 10% of total assets) and liabilities (exceeding one's net worth) must be disclosed. These percentages are often difficult to calculate and make it almost impossible to prove a violation. The PCSC recommended changing these percentage thresholds to dollar values. This bill follows those recommendations and amends the requirements of financial statements to require disclosure of:

- all sources of income in excess of \$2,500 received;
- all sources of income to a business entity in excess of 10% of the gross income of a business entity in which the reporting person received gross income in excess of \$5,000;
- local and description of real property in this state, except for residences and vacation homes, when the person owns in excess of 5% of the value of the real property and a general description of any intangible personal property worth more than \$10,000; and
- every liability in excess of \$10,000.

This bill also requires the financial disclosure report to be filed not later than the last day of each calendar quarter for the previous calendar quarter.

Forms for compliance with this section's requirements and a current list of those subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies. A fine of \$25 will be imposed for each day a financial disclosure statement is late (up to a maximum of \$1,500). The supervisor of elections is required to notify the commission of any delinquencies and, if the commission finds that the person has failed to file the statement within 60 days after September 1, that person will also be subject to the penalties provided in s. 112.317, F.S. By November 15, the supervisor of elections in each county shall certify to the commission a list of names, addresses and offices held of those who have failed to file required statements of financial interests.

A financial disclosure statement must be filed no later than 5 p.m. on the due date, unless it is postmarked by the United States Postal Service (USPS) by midnight of the due date and a certificate of mailing is obtained from and dated by the USPS. In addition, a receipt from an established courier company bearing a date on or before the due date also constitutes proof of mailing in a timely manner.

To implement the notification of the failure to timely file, the commission shall provide a procedure by which each person whose name is on the mailing list and who is determined not to have filed in a timely manner will be notified of assessed fines.

The rule must provide for the following:

1. The amount of the fine due is based on the earliest of the following:
 - when a statement is actually received by the office;
 - when the statement is postmarked;
 - when the certificate of mailing is dated; or
 - when the receipt from an established courier company is dated.
2. For a local officer, upon receipt by the commission of the certification from the local supervisor of elections, the commission shall determine the amount of the fine due and shall notify the delinquent person. The notice must include the procedure for appeal and the fine must be paid within 30 days after the notice of payment due. The money received is to be deposited in the General Revenue Fund.
3. Any reporting person may appeal or dispute a fine based upon unusual circumstances surrounding the failure to file on the due date and may request a hearing before the commission. The commission may waive the fine in whole or in part for good cause shown. The request must be made within 30 days after the notice of payment due is transmitted and the reporting person must notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission.

Those who are required to file full and public disclosure but who are not on the commission's notification list are not subject to the fines or penalties provided in this part but are still required to file the disclosure statement. In addition, the notification requirements and fines do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person is on the commission's notification list and the person received notification. The notification requirements and fines of this subsection do not apply to the final filing statement.

In addition, the Commission on Ethics does not have the authority to do anything regarding a late filing unless a sworn complaint is filed. This bill amends s. 112.3144, F.S., and grants the Commission on Ethics the authority to notify those who have not timely filed and to develop a procedure for the appeal of fines. If a fine remains unpaid for more than 60 days after the notice of payment due or 60 days after the commission renders a final order, the fine must be submitted to the Department of Banking and Finance as a claim, debt, or other obligation owed to the state.

There is currently no established method in Florida law for amending one's financial disclosure form. This bill authorizes the commission to adopt rules and forms regarding how a person who is required to file full and public disclosure may amend his or her statement. If the amendment is the subject of a complaint, the commission and the proper disciplinary official or body shall consider it a mitigating factor, while also recognizing that the public was deprived of access to information to which it was entitled.

Section 5 In response to the concern and confusion regarding the valuation of a gift, this bill amends s. 112.3148, F.S. The current requirement of valuing a gift at the cost to the donor allows some gifts to be valued far below their true value. There may also be a difference when the public official has been given a gift that has appreciated or depreciated in value from the time it was purchased by the donor. The PCSC recommends that the main valuation should be the fair market value of the gift as the value to the recipient. This bill amends s. 112.3148(7)(a), F.S., and requires that the value of a gift shall be based on its fair market value, less taxes and gratuities. In addition, this bill amends s. 112.3148(7)(b), F.S., and s. 112.3148(8)(a), F.S., and requires compensation be provided to the donor within 90 days of the receipt of a gift.

The PCSC also raised a concern regarding the financial disclosure status of someone who has been elected to office, but has not yet officially assumed any responsibilities. In some instances there is a gap of months between the election that entitles a person to office and the day they are sworn in, which allows the possibility of a host of gifts that would not be reported as campaign contributions or disclosed on financial disclosure statements. This bill amends s. 112.3148(2)(d), F.S., and redefines a "reporting individual" as any individual, including a candidate, who is required by Art. II, s. 8 of the State Constitution or s. 112.3145, F.S., to file a disclosure of financial interests or any individual who has been elected to, but has yet to officially assume the responsibilities of public office. In addition, the "agency" of a person who is not an officer or employee in public service is the agency to which the candidate seeks election or the agency in which the individual has been elected to serve.

Section 6 Requires a financial disclosure statement for honoraria to be filed with the Commission on Ethics, not the Secretary of State.

Section 7 Repeals s. 112.3151, F.S., which allows for extensions of time for filing financial disclosure statements.

Section 8 Currently, if a civil penalty is imposed for a violation of ethics laws, the Attorney General is responsible for collecting the penalty through court proceedings, which could mean that the costs of collection may exceed potential penalties. In addition, because the penalty can be paid only to the General Revenue Fund, the agency that has been damaged will not receive any restitution. The PCSC recommended that the penalties section be amended to allow the Attorney General to recover costs, attorney's fees, expert witness fees, or other costs of collection incurred in collecting a penalty that has been imposed. In addition, the PCSC recommends that the restitution be made to the violator's public agency, rather than only to the General Revenue Fund. This bill follows these recommendations and amends s. 112.317, F.S., and provides authority for the Commission on Ethics to recommend that the restitution penalty be paid to the agency of which the public officer was a

member or to the General Revenue Fund. This applies to both former and current public officers. In addition, this bill authorizes the Attorney General to bring a civil action to recover the penalty as well as any costs, attorney's fees, expert witness fees or other costs of collection incurred in bringing such an action.

Section 9 This bill amends s. 112.324(3), F.S., and requires that upon the completion of a full and final investigation of a current member of the Legislature, by the Commission on Ethics, regardless of whether the violative act occurred before or during the current member's term, the complaint shall be forwarded to the President of the Senate or the Speaker of the House. The matter would then be forwarded to the appropriate committee for investigation.

Section 10 This bill amends s. 914.21, F.S., regarding the definition of an "official investigation" as well as an "official proceeding." Because witness tampering does not include tampering with witnesses in a Commission on Ethics proceeding, the language is amended in s. 914.21, F.S., to include a proceeding before the Commission on Ethics within the definition of an official proceeding. In addition, an official investigation would include an investigation conducted by the Florida Commission on Ethics.

Section 11 Section 112.322(9), F.S., requires that the Commission on Ethics prepare a report of special district officers who were late filing financial disclosures and send it to the Department of Community Affairs. The Department does not have the resources or the authority to do anything but file the report when it is received. Because of this lack of authority and resources, this bill repeals s. 112.322(9), F.S., and does not require the reporting to the Department of Community Affairs.

Section 12 The gift law applying to Judges of Compensation Claims has unclear compliance requirements and applies the law in Chapter 112, F.S., as well as the Code of Judicial Conduct. The PCSC recommended amending the statute to specify which standards apply and recommends that since the judges are required to comply with the substantive provisions of the Code of Judicial Conduct, their gift standards should be those provided in the Judicial Code. This bill amends s. 440.442(6), F.S., which contains the Code of Judicial Conduct. This bill clarifies that these judges are required to disclose a public report of all gifts under Canon 5D(5)(h) and 6(b)(2) of the Code of Judicial Conduct and removes language referring to Chapter 112 reporting requirements. This section also provides conforming language to require filing with the Commission on Ethics, not the Secretary of State.

Section 13 Several provisions of Chapter 839, F.S., overlap ethics provisions in Chapter 112, but provide conflicting penalties. One prohibition in Chapter 839 was declared to have been impliedly repealed by the Florida Supreme Court in Oldham v. Rooks, 361 So.2d 140 (Fla. 1978). This calls into question the validity of the provisions in ss. 839.08, 839.09, 839.091, and 839.10, F.S. This bill repeals ss. 839.08, 839.09, 839.091, and 839.10, F.S., to resolve this conflict. These repealed sections applied to a public officer purchasing supplies for public use from herself or himself and bidding for a public work contract.

Section 14 In the past, the Commission on Ethics has tried to obtain testimony from witnesses, regarding a public official's ethics violation, who have been entitled to claim a fifth amendment privilege because of the possibility of criminal prosecution for their involvement. A State Attorney can grant immunity to the witness, but immunity is not available unless the State Attorney has an ongoing proceeding in which the witness' testimony is needed. The Public Service Commission is authorized by s. 350.14, F.S., to consult with the appropriate state attorney and apply to the chief judge of the circuit for a judicial grant of immunity. However, confidentiality limitations imposed on ethics proceedings do not permit Commission on Ethics investigators to provide any information to law enforcement investigators who are concurrently investigating the situation to determine if any criminal laws have been violated. This bill creates s. 112.3232, F.S., regarding compelled testimony. It provides that if a person is called to testify in a Commission on Ethics proceeding and does not want to testify because of possible self-incrimination, the Commission on Ethics has the authority to consult with the appropriate state attorney and to apply to the chief judge of the appropriate judicial circuit for a judicial grant of immunity. The testimony compelled under the order and any information derived directly or indirectly from that testimony may not be used against the witness in any criminal prosecution or commission proceeding.

Section 15 Appropriates \$193,950 from the General Revenue Fund to the Commission on Ethics to administer the responsibilities of this act.

Section 16 Provides an effective date of January 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill will increase the General Revenue Fund with the receipt of automatic fines. The commission estimates the additional revenue at \$100,000 per year for FY 2001-2002 and FY 2002-2003. It should be noted that this bill authorizes restitution to be paid to the violator's public agency or to the General Revenue Fund.

2. Expenditures:

This bill transfers the administration of the financial disclosure filing system, as well as the gift and honoraria disclosures, from the Secretary of State to the Commission on Ethics. The bill also creates an automatic fine system. The commission estimates that \$193,956 of the General Revenue Fund will be required to implement the new responsibilities of this bill.

Ethics Commission	FY 00-01	FY 01-02	FY 02-03
Non-Recurring/ Start Up	\$110,725		
Recurring Costs	\$ 83,231	\$128,302	\$132,151
TOTAL:	\$193,956	\$128,302	\$132,151

The Department of State's General Revenue needs will be reduced by approximately \$48,717 for FY 00-01.

STORAGE NAME: h1643a.go

DATE: March 30, 2000

PAGE 12

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

None.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

None.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

None.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

STORAGE NAME: h1643a.go

DATE: March 30, 2000

PAGE 13

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 2000, the Committee on Governmental Operations heard HB 1643 and reported it out favorably as amended. The Committee adopted one amendment that added the Technological Research and Development Authority to the list of those entities that are authorized to give a gift in excess of \$100 if a public purpose can be shown for the gift.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Amy K. Tuck

Jimmy O. Helms