

By the Committee on Ethics and Elections; and Senators
Saunders, Rossin, Hargrett, Sebesta and Kirkpatrick

313-109C-00

1 A bill to be entitled
2 An act relating to ethics; amending s. 112.312,
3 F.S.; redefining the term "gift"; amending s.
4 112.313, F.S.; extending the prohibition
5 against the use of certain confidential public
6 information to former officers, employees, and
7 local government attorneys; amending s.
8 112.3144, F.S.; transferring filing
9 administration from the Secretary of State to
10 the Commission on Ethics; modifying the filing
11 location for officers from the Secretary of
12 State to the commission; establishing an
13 automatic fine system for delinquent filers and
14 nonfilers; requiring former officers and
15 employees to file a final disclosure of
16 financial interests no later than 60 days
17 following departure, with certain exceptions;
18 requiring the Commission on Ethics to adopt
19 rules and forms relating to filing amended full
20 and public disclosure of financial interests;
21 amending s. 112.3145, F.S.; redefining the term
22 "local officer"; revising the reporting
23 requirements for limited statutory disclosure
24 of financial interests; transferring filing
25 administration from the Secretary of State to
26 the Commission on Ethics; modifying the filing
27 location for state officers and specified state
28 employees from the Secretary of State to the
29 commission; modifying certification
30 requirements of supervisors of elections with
31 regard to delinquent filers and nonfilers;

1 establishing an automatic fine system for
2 delinquent filers and nonfilers; requiring
3 former officers and employees to file a final
4 statement of financial interests within 60 days
5 after leaving office or employment, with
6 certain exceptions; modifying reporting dates
7 for filing quarterly reports of the names of
8 clients represented before certain agencies for
9 a fee; requiring the Commission on Ethics to
10 adopt rules and forms relating to amended
11 financial disclosure filings; amending s.
12 112.3148, F.S.; redefining the term "reporting
13 individual"; establishing a reimbursement
14 deadline with regard to the valuation of gifts
15 received by reporting individuals; clarifying
16 that the gifts law applies to candidates;
17 extending the gifts law to include
18 nonincumbents elected to office for the period
19 immediately following election but before
20 officially taking office; transferring the
21 filing administration for gift disclosure from
22 the Secretary of State to the Commission on
23 Ethics; amending s. 112.3149, F.S.;
24 transferring filing administration for
25 honoraria disclosure from the Department of
26 State to the Commission on Ethics; repealing s.
27 112.3151, F.S., which authorizes the Commission
28 on Ethics to grant extensions of time for
29 filing certain disclosure statements; amending
30 s. 112.317, F.S.; authorizing the Commission on
31 Ethics to recommend how restitution may be

1 paid; entitling the Attorney General to
2 reimbursement of fees and costs associated with
3 collecting civil and restitution penalties
4 imposed for ethics violations; removing a
5 criminal penalty related to the disclosure of
6 confidential information brought before the
7 commission; amending s. 112.324, F.S.;
8 clarifying that the proper sanction authority
9 in the case of a current state legislator who
10 commits an act in violation of the Ethics Code
11 prior to joining the Legislature is vested in
12 the house in which the legislator serves;
13 amending s. 914.21, F.S.; redefining the terms
14 "official proceeding" and "official
15 investigation"; extending the witness-tampering
16 laws to include Commission on Ethics
17 investigations and proceedings; repealing s.
18 112.322(9), F.S., which requires the Commission
19 on Ethics to report certain delinquent
20 financial disclosure filers to the Department
21 of Community Affairs; amending s. 440.442,
22 F.S.; transferring the filing location for
23 public financial reporting by judges of
24 compensation claims from the Secretary of State
25 to the Commission on Ethics; clarifying that
26 the Code of Judicial Conduct governs the
27 reporting of gifts for judges of compensation
28 claims; repealing ss. 839.08, 839.09, 839.091,
29 and 839.10, F.S., which provide criminal
30 penalties for offenses by public officers and
31 employees relating to the purchase of supplies

1 or materials and the bidding for public work;
2 creating s. 112.3232, F.S.; authorizing the
3 Commission on Ethics to seek immunity for
4 certain witnesses; appropriating funds to the
5 Commission on Ethics; providing an effective
6 date.

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

9
10 Section 1. Subsection (12) of section 112.312, Florida
11 Statutes, is amended to read:

12 112.312 Definitions.--As used in this part and for
13 purposes of the provisions of s. 8, Art. II of the State
14 Constitution, unless the context otherwise requires:

15 (12)(a) "Gift," for purposes of ethics in government
16 and financial disclosure required by law, means that which is
17 accepted by a donee or by another on the donee's behalf, or
18 that which is paid or given to another for or on behalf of a
19 donee, directly, indirectly, or in trust for the donee's
20 benefit or by any other means, for which equal or greater
21 consideration is not given within 90 days, including:

- 22 1. Real property.
- 23 2. The use of real property.
- 24 3. Tangible or intangible personal property.
- 25 4. The use of tangible or intangible personal
26 property.
- 27 5. A preferential rate or terms on a debt, loan,
28 goods, or services, which rate is below the customary rate and
29 is not either a government rate available to all other
30 similarly situated government employees or officials or a rate
31 which is available to similarly situated members of the public

1 by virtue of occupation, affiliation, age, religion, sex, or
2 national origin.

3 6. Forgiveness of an indebtedness.

4 7. Transportation, other than that provided to a
5 public officer or employee by an agency in relation to
6 officially approved governmental business, lodging, or
7 parking.

8 8. Food or beverage.

9 9. Membership dues.

10 10. Entrance fees, admission fees, or tickets to
11 events, performances, or facilities.

12 11. Plants, flowers, or floral arrangements.

13 12. Services provided by persons pursuant to a
14 professional license or certificate.

15 13. Other personal services for which a fee is
16 normally charged by the person providing the services.

17 14. Any other similar service or thing having an
18 attributable value not already provided for in this section.

19 (b) "Gift" does not include:

20 1. Salary, benefits, services, fees, commissions,
21 gifts, or expenses associated primarily with the donee's
22 employment, business, or service as an officer or director of
23 a corporation or organization.

24 2. Contributions or expenditures reported pursuant to
25 chapter 106, campaign-related personal services provided
26 without compensation by individuals volunteering their time,
27 or any other contribution or expenditure by a political party.

28 3. An honorarium or an expense related to an
29 honorarium event paid to a person or the person's spouse.

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1 4. An award, plaque, certificate, or similar
2 personalized item given in recognition of the donee's public,
3 civic, charitable, or professional service.

4 5. An honorary membership in a service or fraternal
5 organization presented merely as a courtesy by such
6 organization.

7 6. The use of a public facility or public property,
8 made available by a governmental agency, for a public purpose.

9 7. Transportation provided to a public officer or
10 employee by an agency in relation to officially approved
11 governmental business.

12 8. Gifts provided directly or indirectly by a state,
13 regional, or national organization which promotes the exchange
14 of ideas between, or the professional development of,
15 governmental officials or employees, and whose membership is
16 primarily composed of elected or appointed public officials or
17 staff, to members of that organization or officials or staff
18 of a governmental agency that is a member of that
19 organization.

20 (c) For the purposes of paragraph (a), "intangible
21 personal property" means property as defined in s.
22 192.001(11)(b).

23 (d) For the purposes of paragraph (a), the term
24 "consideration" does not include a promise to pay or otherwise
25 provide something of value unless the promise is in writing
26 and enforceable through the courts.

27 Section 2. Subsection (8) of section 112.313, Florida
28 Statutes, is amended to read:

29 112.313 Standards of conduct for public officers,
30 employees of agencies, and local government attorneys.--
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1 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--A
2 current or former ~~No~~ public officer, employee of an agency, or
3 local government attorney may not ~~shall~~ disclose or use
4 information unavailable ~~not available~~ to ~~members of the~~
5 ~~general~~ public and gained by reason of his or her official
6 position, except for information relating exclusively to
7 governmental practices or procedures, for his or her personal
8 gain or benefit or for the personal gain or benefit of any
9 other person or business entity.

10 Section 3. Section 112.3144, Florida Statutes, is
11 amended to read:

12 112.3144 Full and public disclosure of financial
13 interests.--

14 (1) Each public officer or employee who is required,
15 pursuant to s. 8, Art. II of the State Constitution, to file a
16 full and public disclosure of financial interests for any
17 calendar or fiscal year shall file the disclosure with the
18 Florida Commission on Ethics.

19 (2)(1) A ~~No~~ person who is required, pursuant to s. 8,
20 Art. II of the State Constitution, to file a full and public
21 disclosure of financial interests and who has filed a full and
22 public disclosure of financial interests for any calendar or
23 fiscal year shall not be required to file a statement of
24 financial interests pursuant to s. 112.3145(2) and (3) for the
25 same year or for any part thereof notwithstanding any
26 requirement of this part, except that a candidate for office
27 shall file a copy of his or her disclosure with the officer
28 before whom he or she qualifies.

29 (3)(2) For purposes of full and public disclosure
30 under s. 8(a), Art. II of the State Constitution, the
31 following items, if not held for investment purposes and if

1 valued at over \$1,000 in the aggregate, may be reported in a
2 lump sum and identified as "household goods and personal
3 effects":

4 (a) Jewelry;

5 (b) Collections of stamps, guns, and numismatic
6 properties;

7 (c) Art objects;

8 (d) Household equipment and furnishings;

9 (e) Clothing;

10 (f) Other household items; and

11 (g) Vehicles for personal use.

12 ~~(4)(3)~~ Forms for compliance with the full and public
13 disclosure requirements of s. 8, Art. II of the State
14 Constitution, ~~and a current list of persons required to file~~
15 ~~full and public disclosure by s. 8, Art. II of the State~~
16 ~~Constitution, or other state law,~~ shall be created provided by
17 the Commission on Ethics. The commission ~~to the Secretary of~~
18 ~~State, who~~ shall give notice of disclosure deadlines and
19 delinquencies and distribute forms in the following manner:

20 (a) Not later than May 1 of each year, the commission
21 ~~on Ethics~~ shall prepare a current list of the names and
22 addresses of and the offices held by every person required to
23 file full and public disclosure annually by s. 8, Art. II of
24 the State Constitution, or other state law, ~~and shall provide~~
25 ~~the Secretary of State with the mailing list.~~ In compiling the
26 list, the commission shall be assisted by each unit of
27 government in providing at the request of the commission the
28 name, address, and name of the office held by each public
29 official within the respective unit of government.

30 (b) Not later than 30 days before July 1 of each year,
31 the commission ~~Secretary of State~~ shall mail a copy of the

1 form prescribed for compliance with full and public disclosure
2 and a notice of the filing deadline to each person on the
3 mailing list.

4 (c) Not later than 30 days after July 1 of each year,
5 the ~~commission~~ Secretary of State shall determine which
6 persons on the mailing list have failed to file full and
7 public disclosure and shall send delinquency notices by
8 certified mail to such persons. Each notice must ~~shall~~ state
9 that a grace period is in effect until September 1 of the
10 current year and that, if the statement is not filed by
11 September 1 of the current year, a \$25 fine for each day late
12 will be imposed, up to a maximum penalty of \$1,500; and that,
13 if upon the filing of a sworn complaint the commission finds
14 that the person has failed to timely file the statement within
15 60 days after September 1 of the current year, such person
16 will also be subject to the penalties provided in s. 112.317
17 ~~the Secretary of State is required by law to notify the~~
18 ~~Commission on Ethics of the delinquency.~~

19 (d) Statements must be filed not later than 5 p.m. of
20 the due date. However, any statement that is postmarked by the
21 United States Postal Service by midnight of the due date is
22 deemed to have been filed in a timely manner, and a
23 certificate of mailing obtained from and dated by the United
24 States Postal Service at the time of the mailing, or a receipt
25 from an established courier company which bears a date on or
26 before the due date, constitutes proof of mailing in a timely
27 manner.

28 ~~(d) Not later than 30 days following September 1 of~~
29 ~~each year, the Secretary of State shall certify to the~~
30 ~~Commission on Ethics a list of the names and addresses of and~~
31 ~~the offices held by all persons on the mailing list who have~~

1 ~~failed to timely file full and public disclosure. The~~
2 ~~certification shall be on a form prescribed by the commission~~
3 ~~and shall indicate whether the Secretary of State has provided~~
4 ~~the disclosure forms and notice as required by this section to~~
5 ~~all persons named on the delinquency list.~~

6 (e) Any person who is required to file full and public
7 disclosure of financial interests and whose name is on the
8 commission's mailing list but who fails to timely file is
9 assessed a fine of \$25 per day for each day late up to a
10 maximum of \$1,500; however this \$1,500 limitation on automatic
11 finest does not limit the civil penalty that may be imposed if
12 the statement is filed more than 60 days after the deadline
13 and a complaint is filed, as provided in s. 112.324. The
14 commission shall provide by rule a procedure by which each
15 person whose name is on the mailing list and who is determined
16 to have not filed in a timely manner will be notified of
17 assessed fines. The rule must provide for the following:

18 1. The amount of the fine due is based upon the
19 earliest of the following:

20 a. When a statement is actually received by the
21 office.

22 b. When the statement is postmarked.

23 c. When the certificate of mailing is dated.

24 d. When the receipt from an established courier
25 company is dated.

26 2. Upon receipt of the disclosure statement or upon
27 accrual of the maximum penalty, whichever occurs first, the
28 commission shall determine the amount of the fine which is due
29 and shall notify the delinquent person. The notice must
30 include an explanation of the appeal procedure under
31 subparagraph 3. Such fine must be paid within 30 days after

1 the notice of payment due is transmitted, unless appeal is
2 made to the commission pursuant to subparagraph 3. The moneys
3 shall be deposited into the General Revenue Fund.

4 3. Any reporting person may appeal or dispute a fine,
5 based upon unusual circumstances surrounding the failure to
6 file on the designated due date, and may request and is
7 entitled to a hearing before the commission, which may waive
8 the fine in whole or in part for good cause shown. Any such
9 request must be made within 30 days after the notice of
10 payment due is transmitted. In such a case, the reporting
11 person must, within the 30-day period, notify the person
12 designated to review the timeliness of reports in writing of
13 his or her intention to bring the matter before the
14 commission.

15 (f)(e) Any person subject to the annual filing of full
16 and public disclosure under s. 8, Art. II of the State
17 Constitution, or other state law, whose name is not on the
18 commission's mailing list of persons required to file full and
19 public disclosure is provided to the Secretary of State shall
20 not subject to the fines or penalties provided in this part be
21 deemed delinquent for failure to file full and public
22 disclosure in any year in which the omission occurred, but
23 nevertheless is required to file the disclosure statement.

24 (g)(f) The notification requirements and fines of this
25 subsection do not apply to candidates or to the first filing
26 required of any person appointed to elective constitutional
27 office or other position required to file full and public
28 disclosure, unless the person's name is on the commission's
29 notification list and the person received notification from
30 the commission. The appointing official shall notify such
31 newly appointed person of the obligation to file full and

1 public disclosure by July 1. The notification requirements and
2 finances of this subsection do not apply to the final filing
3 provided for in subsection (5).

4 (h) Notwithstanding any provision of chapter 120, any
5 fine imposed under this subsection which is not waived by
6 final order of the commission and which remains unpaid more
7 than 60 days after the notice of payment due or more than 60
8 days after the commission renders a final order on the appeal
9 must be submitted to the Department of Banking and Finance as
10 a claim, debt, or other obligation owed to the state, and the
11 department shall assign the collection of such fine to a
12 collection agent as provided in s. 17.20.

13 (5) Each person required to file full and public
14 disclosure of financial interests shall file a final
15 disclosure statement within 60 days after leaving his or her
16 public position for the period between January 1 of the year
17 in which the person leaves office and the last day of office
18 or employment, unless within the 60-day period the person
19 takes another public position requiring financial disclosure
20 under s. 8 of Art. II of the State Constitution, or is
21 otherwise required to file full and public disclosure for the
22 final disclosure period.

23 (6) The commission shall adopt rules and forms
24 specifying how a person who is required to file full and
25 public disclosure of financial interests may amend his or her
26 disclosure statement to report information that was not
27 included on the form as originally filed. If the amendment is
28 the subject of a complaint filed under this part, the
29 commission and the proper disciplinary official or body shall
30 consider as a mitigating factor when considering appropriate
31 disciplinary action the fact that the amendment was filed

1 before any complaint or other inquiry or proceeding, while
2 recognizing that the public was deprived of access to
3 information to which it was entitled.

4 Section 4. Section 112.3145, Florida Statutes, is
5 amended to read:

6 112.3145 Disclosure of financial interests and clients
7 represented before agencies.--

8 (1) For purposes of this section, unless the context
9 otherwise requires, the term:

10 (a) "Local officer" means:

11 1. Every person who is elected to office in any
12 political subdivision of the state, and every person who is
13 appointed to fill a vacancy for an unexpired term in such an
14 elective office.

15 2. Any appointed member of any of the following
16 boards, councils, commissions, authorities, or other bodies of
17 any county, municipality, school district, independent special
18 district, or other political subdivision of the state:

19 a. The governing body of the political subdivision, if
20 appointed;

21 b. An expressway authority or transportation authority
22 established by general law;

23 c. A community college or junior college district
24 board of trustees;

25 d. A board having the power to enforce local code
26 provisions;

27 e. A planning or zoning board, board of adjustment,
28 board of appeals, or other board having the power to
29 recommend, create, or modify land planning or zoning within
30 the political subdivision, except for citizen advisory
31 committees, technical coordinating committees, and such other

1 groups who only have the power to make recommendations to
2 planning or zoning boards;

3 f. A pension board or retirement board having the
4 power to invest pension or retirement funds or the power to
5 make a binding determination of one's entitlement to or amount
6 of a pension or other retirement benefit; or

7 g. Any other appointed member of a local government
8 board who is required to file a statement of financial
9 interests by the appointing authority or the enabling
10 legislation, ordinance, or resolution creating the board.~~a~~
11 ~~board; commission; authority, including any expressway~~
12 ~~authority or transportation authority established by general~~
13 ~~law; community college district board of trustees; or council~~
14 ~~of any political subdivision of the state, excluding any~~
15 ~~member of an advisory body. A governmental body with~~
16 ~~land-planning, zoning, or natural resources responsibilities~~
17 ~~shall not be considered an advisory body.~~

18 3. Any person holding one or more of the following
19 positions: mayor; county or city manager; chief administrative
20 employee of a county, municipality, or other political
21 subdivision; county or municipal attorney; chief county or
22 municipal building inspector; county or municipal water
23 resources coordinator; county or municipal pollution control
24 director; county or municipal environmental control director;
25 county or municipal administrator, with power to grant or deny
26 a land development permit; chief of police; fire chief;
27 municipal clerk; district school superintendent; community
28 college president; district medical examiner; or purchasing
29 agent having the authority to make any purchase exceeding the
30 threshold amount provided for in s. 287.017 for CATEGORY ONE,
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1 on behalf of any political subdivision of the state or any
2 entity thereof.

3 (b) "Specified state employee" means:

4 1. Public counsel created by chapter 350, an assistant
5 state attorney, an assistant public defender, a full-time
6 state employee who serves as counsel or assistant counsel to
7 any state agency, a judge of compensation claims, an
8 administrative law judge, or a hearing officer.

9 2. Any person employed in the office of the Governor
10 or in the office of any member of the Cabinet if that person
11 is exempt from the Career Service System, except persons
12 employed in clerical, secretarial, or similar positions.

13 3. Each appointed secretary, assistant secretary,
14 deputy secretary, executive director, assistant executive
15 director, or deputy executive director of each state
16 department, commission, board, or council; unless otherwise
17 provided, the division director, assistant division director,
18 deputy director, bureau chief, and assistant bureau chief of
19 any state department or division; or any person having the
20 power normally conferred upon such persons, by whatever title.

21 4. The superintendent or institute director of a state
22 mental health institute established for training and research
23 in the mental health field or the superintendent or director
24 of any major state institution or facility established for
25 corrections, training, treatment, or rehabilitation.

26 5. Business managers, purchasing agents having the
27 power to make any purchase exceeding the threshold amount
28 provided for in s. 287.017 for CATEGORY ONE, finance and
29 accounting directors, personnel officers, or grants
30 coordinators for any state agency.

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1 6. Any person, other than a legislative assistant
2 exempted by the presiding officer of the house by which the
3 legislative assistant is employed, who is employed in the
4 legislative branch of government, except persons employed in
5 maintenance, clerical, secretarial, or similar positions.

6 7. Each employee of the Commission on Ethics.

7 (c) "State officer" means:

8 1. Any elected public officer, excluding those elected
9 to the United States Senate and House of Representatives, not
10 covered elsewhere in this part and any person who is appointed
11 to fill a vacancy for an unexpired term in such an elective
12 office.

13 2. An appointed member of each board, commission,
14 authority, or council having statewide jurisdiction, excluding
15 a member of an advisory body.

16 3. A member of the Board of Regents, the Chancellor
17 and Vice Chancellors of the State University System, and the
18 president of a state university.

19 (2)(a) A person seeking nomination or election to a
20 state or local elective office shall file a statement of
21 financial interests together with, and at the same time he or
22 she files, qualifying papers.

23 (b) Each state or local officer and each specified
24 state employee shall file a statement of financial interests
25 no later than July 1 of each year. Each former state or local
26 officer or specified state employee shall file a final
27 financial disclosure statement within 60 days after leaving
28 his or her public position for the period between January 1 of
29 the year in which the person leaves and the last day of office
30 or employment, unless within this 60-day period the person
31 takes another public position requiring disclosure under this

1 section or s. 8 of Art. II of the State Constitution or is
2 otherwise required to file full and public disclosure for the
3 final reporting period.Each state or local officer who is
4 appointed and each specified state employee who is employed
5 shall file a statement of financial interests within 30 days
6 from the date of appointment or, in the case of a specified
7 state employee, from the date on which the employment begins,
8 except that any person whose appointment is subject to
9 confirmation by the Senate shall file prior to confirmation
10 hearings or within 30 days from the date of appointment,
11 whichever comes first.

12 (c) State officers, ~~persons qualifying for a state~~
13 ~~office,~~and specified state employees shall file their
14 statements of financial interests with the Commission on
15 Ethics Secretary of State. Local officers shall file their
16 statements of financial interests with the supervisor of
17 elections of the county in which they permanently reside.
18 Local officers who do not permanently reside in any county in
19 the state shall file their statements of financial interests
20 with the supervisor of elections of the county in which their
21 agency maintains its headquarters. Persons seeking to qualify
22 as candidates for local public office shall file their
23 statements of financial interests with the officer before whom
24 they qualify.

25 (3) The statement of financial interests for state
26 officers, specified state employees, local officers, and
27 persons seeking to qualify as candidates for state or local
28 office shall be filed even if the reporting person holds no
29 financial interests requiring disclosure, in which case the
30 statement shall be marked "not applicable." Otherwise, the
31 statement of financial interests shall include:

1 (a) All sources of income in excess of \$2,500 5
2 ~~percent of the gross income~~ received during the disclosure
3 period by the person in his or her own name or by any other
4 person for his or her use or benefit, excluding public salary.
5 However, this shall not be construed to require disclosure of
6 a business partner's sources of income. The person reporting
7 shall list such sources in descending order of value with the
8 largest source first.

9 (b) All sources of income to a business entity in
10 excess of 10 percent of the gross income of a business entity
11 in which the reporting person held a material interest and
12 from which he or she received gross income in excess of \$5,000
13 during the disclosure period ~~an amount which was in excess of~~
14 ~~10 percent of his or her gross income during the disclosure~~
15 ~~period and which exceeds \$1,500.~~ The period for computing the
16 gross income of the business entity is the fiscal year of the
17 business entity which ended on, or immediately prior to, the
18 end of the disclosure period of the person reporting.

19 (c) The location or description of real property in
20 this state, except for residences and vacation homes, owned
21 directly or indirectly by the person reporting, when such
22 person owns in excess of 5 percent of the value of such real
23 property, and a general description of any intangible personal
24 property worth in excess of \$10,000 ~~10 percent of such~~
25 ~~person's total assets.~~ For the purposes of this paragraph,
26 indirect ownership does not include ownership by a spouse or
27 minor child.

28 (d) Every liability in excess of \$10,000 ~~which in sum~~
29 ~~equals more than the reporting person's net worth.~~

30 (4) Each elected constitutional officer, state
31 officer, local officer, and specified state employee shall

1 file a quarterly report of the names of clients represented
2 for a fee or commission, except for appearances in ministerial
3 matters, before agencies at his or her level of government.
4 For the purposes of this part, agencies of government shall be
5 classified as state-level agencies or agencies below state
6 level. Each local officer shall file such report with the
7 supervisor of elections of the county in which the officer is
8 principally employed or is a resident. Each state officer,
9 elected constitutional officer, and specified state employee
10 shall file such report with the commission ~~Secretary of State~~.
11 The report shall be filed only when a reportable
12 representation is made during the calendar quarter and shall
13 be filed no later than the last day of each calendar quarter,
14 for the previous calendar ~~15 days after the last day of the~~
15 quarter. Representation before any agency shall be deemed to
16 include representation by such officer or specified state
17 employee or by any partner or associate of the professional
18 firm of which he or she is a member and of which he or she has
19 actual knowledge. For the purposes of this subsection, the
20 term "representation before any agency" does not include
21 appearances before any court or Chief Judges of Compensation
22 Claims or judges of compensation claims or representations on
23 behalf of one's agency in one's official capacity. Such term
24 does not include the preparation and filing of forms and
25 applications merely for the purpose of obtaining or
26 transferring a license based on a quota or a franchise of such
27 agency or a license or operation permit to engage in a
28 profession, business, or occupation, so long as the issuance
29 or granting of such license, permit, or transfer does not
30 require substantial discretion, a variance, a special
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1 consideration, or a certificate of public convenience and
2 necessity.

3 (5) Each elected constitutional officer and each
4 candidate for such office, any other public officer required
5 pursuant to s. 8, Art. II of the State Constitution to file a
6 full and public disclosure of his or her financial interests,
7 and each state officer, local officer, specified state
8 employee, and candidate for elective public office who is or
9 was during the disclosure period an officer, director,
10 partner, proprietor, or agent, other than a resident agent
11 solely for service of process, of, or owns or owned during the
12 disclosure period a material interest in, any business entity
13 which is granted a privilege to operate in this state shall
14 disclose such facts as a part of the disclosure form filed
15 pursuant to s. 8, Art. II of the State Constitution or this
16 section, as applicable. The statement shall give the name,
17 address, and principal business activity of the business
18 entity and shall state the position held with such business
19 entity or the fact that a material interest is owned and the
20 nature of that interest.

21 (6) Forms for compliance with the disclosure
22 requirements of this section and a current list of persons
23 subject to disclosure shall be created ~~provided~~ by the
24 ~~commission on Ethics to the Secretary of State~~ and provided to
25 each supervisor of elections. The commission and each
26 supervisor of elections, ~~who~~ shall give notice of disclosure
27 deadlines and delinquencies and distribute forms in the
28 following manner:

29 (a)1. Not later than May 1 of each year, the
30 ~~commission on Ethics~~ shall prepare a current list of the names
31 and addresses of, and the offices or positions held by, every

1 state officer, local officer, and specified employee. In
2 compiling the list, the commission shall be assisted by each
3 unit of government in providing, at the request of the
4 commission, the name, address, and name of agency of, and the
5 office or position held by, each state officer, local officer,
6 or specified state employee within the respective unit of
7 government.

8 2. Not later than May 15 of each year, the commission
9 ~~shall provide the Secretary of State with a current mailing~~
10 ~~list of all state officers and specified employees and shall~~
11 provide each supervisor of elections with a current mailing
12 list of all local officers required to file with such
13 supervisor of elections.

14 (b) Not later than 30 days before July 1 of each year,
15 the commission ~~Secretary of State~~ and each supervisor of
16 elections, as appropriate, shall mail a copy of the form
17 prescribed for compliance with subsection (3) and a notice of
18 all applicable disclosure forms and filing deadlines to each
19 person required to file a statement of financial interests.

20 (c) Not later than 30 days after July 1 of each year,
21 the commission ~~Secretary of State~~ and each supervisor of
22 elections shall determine which persons required to file a
23 statement of financial interests in their respective offices
24 have failed to do so and shall send delinquency notices by
25 certified mail to such persons. Each notice shall state that
26 a grace period is in effect until September 1 of the current
27 year; that no investigative or disciplinary action based upon
28 the delinquency will be taken by the agency head or commission
29 ~~on Ethics~~ if the statement is filed by September 1 of the
30 current year; that, if the statement is not filed by September
31 1 of the current year, a fine of \$25 for each day late will be

1 imposed, up to a maximum penalty of \$1,500; for notices sent
2 by a supervisor of elections, that he or she is required by
3 law to notify the commission ~~on Ethics~~ of the delinquency; and
4 that, if upon the filing of a sworn complaint the commission
5 finds that the person has failed to timely file the statement
6 within 60 days after ~~by~~ September 1 of the current year, such
7 person ~~will also shall~~ be subject to the penalties provided in
8 s. 112.317.

9 (d) No later than November 15 of each year ~~Not later~~
10 ~~than 30 days following September 1 of each year, the Secretary~~
11 ~~of State and~~ the supervisor of elections in each county shall
12 certify to the commission ~~on Ethics~~ a list of the names and
13 addresses of, and the offices or positions held by, all
14 persons who have failed to timely file the required statements
15 of financial interests. The certification must include the
16 earliest of the dates described in subparagraph (f)1.The
17 certification shall be on a form prescribed by the commission
18 and shall indicate whether the supervisor of elections
19 ~~respective certifying official~~ has provided the disclosure
20 forms and notice as required by this subsection to all persons
21 named on the delinquency list.

22 (e) Statements must be filed not later than 5 p.m. of
23 the due date. However, any statement that is postmarked by the
24 United States Postal Service by midnight of the due date is
25 deemed to have been filed in a timely manner, and a
26 certificate of mailing obtained from and dated by the United
27 States Postal Service at the time of the mailing, or a receipt
28 from an established courier company which bears a date on or
29 before the due date, constitutes proof of mailing in a timely
30 manner.

31

1 (f) Any person who is required to file a statement of
2 financial interests and whose name is on the commission's
3 mailing list but who fails to timely file is to be assessed a
4 fine of \$25 per day for each day late up to a maximum of
5 \$1,500; however, this \$1,500 limitation on automatic fines
6 does not limit the civil penalty that may be imposed if the
7 statement is filed more than 60 days after the deadline and a
8 complaint is filed, as provided in s. 112.324. The commission
9 shall provide by rule a procedure by which each person whose
10 name is on the mailing list and who is determined to have not
11 filed in a timely manner is to be notified of assessed fines.
12 The rule must provide that:
13 1. The amount of the fine due is based upon the
14 earliest of the following:
15 a. When a statement is actually received by the
16 office.
17 b. When the statement is postmarked.
18 c. When the certificate of mailing is dated.
19 d. When the receipt from an established courier
20 company is dated.
21 2. For a specified state employee or a state officer,
22 upon receipt of the disclosure statement by the commission or
23 upon accrual of the maximum penalty, whichever occurs first,
24 and for a local officer upon receipt by the commission of the
25 certification from the local officer's supervisor of elections
26 pursuant to paragraph (d), the commission shall determine the
27 amount of the fine which is due and shall notify the
28 delinquent person. The notice must include an explanation of
29 the appeal procedure under subparagraph 3. The fine must be
30 paid within 30 days after the notice of payment due is
31 transmitted, unless appeal is made to the commission pursuant

1 to subparagraph 3. The moneys are to be deposited into the
2 General Revenue Fund.

3 3. Any reporting person may appeal or dispute a fine,
4 based upon unusual circumstances surrounding the failure to
5 file on the designated due date, and may request and is
6 entitled to a hearing before the commission, which may waive
7 the fine in whole or in part for good cause shown. Any such
8 request must be made within 30 days after the notice of
9 payment due is transmitted. In such a case, the reporting
10 person must, within the 30-day period, notify the person
11 designated to review the timeliness of reports in writing of
12 his or her intention to bring the matter before the
13 commission.

14 (g)(e) Any state officer, local officer, or specified
15 employee whose name is not on the mailing list of persons
16 required to file statements of financial interests provided to
17 the Secretary of State or supervisor of elections is not
18 subject to the penalties provided in s. 112.317 or the fine
19 provided in this section for failure to timely file a
20 statement of financial interests in any year in which the
21 omission occurred, but nevertheless is required to file the
22 disclosure statement.

23 (h)(f) The notification requirements and fines of this
24 subsection do not apply to candidates or to the first or final
25 filing required of any state officer, specified employee, or
26 local officer as provided in paragraph (2)(b).

27 (i) Notwithstanding any provision of chapter 120, any
28 fine imposed under this subsection which is not waived by
29 final order of the commission and which remains unpaid more
30 than 60 days after the notice of payment due or more than 60
31 days after the commission renders a final order on the appeal

1 must be submitted to the Department of Banking and Finance as
2 a claim, debt, or other obligation owed to the state, and the
3 department shall assign the collection of such a fine to a
4 collection agent as provided in s. 17.20.

5 (7) The appointing official or body shall notify each
6 newly appointed local officer, state officer, or specified
7 state employee, not later than the date of appointment, of the
8 officer's or employee's duty to comply with the disclosure
9 requirements of this section. The agency head of each
10 employing agency shall notify each newly employed local
11 officer or specified state employee, not later than the day of
12 employment, of the officer's or employee's duty to comply with
13 the disclosure requirements of this section. The appointing
14 official or body or employing agency head may designate a
15 person to be responsible for the notification requirements of
16 this section.

17 (8) A public officer who has filed a disclosure for
18 any calendar or fiscal year shall not be required to file a
19 second disclosure for the same year or any part thereof,
20 notwithstanding any requirement of this act, except that any
21 public officer who qualifies as a candidate for public office
22 shall file a copy of the disclosure with the officer before
23 whom he or she qualifies as a candidate at the time of
24 qualification.

25 (9) The commission shall adopt rules and forms
26 specifying how a state officer, local officer, or specified
27 state employee may amend his or her statement of financial
28 interests to report information that was not included on the
29 form as originally filed. If the amendment is the subject of a
30 complaint filed under this part, the commission and the proper
31 disciplinary official or body shall consider as a mitigating

1 factor when considering appropriate disciplinary action the
2 fact that the amendment was filed before any complaint or
3 other inquiry or proceeding, while recognizing that the public
4 was deprived of access to information to which it was
5 entitled.

6 Section 5. Section 112.3148, Florida Statutes, is
7 amended to read:

8 112.3148 Reporting and prohibited receipt of gifts by
9 individuals filing full or limited public disclosure of
10 financial interests and by procurement employees.--

11 (1) The provisions of this section do not apply to
12 gifts solicited or accepted by a reporting individual or
13 procurement employee from a relative.

14 (2) As used in this section:

15 (a) "Immediate family" means any parent, spouse,
16 child, or sibling.

17 (b)1. "Lobbyist" means any natural person who, for
18 compensation, seeks, or sought during the preceding 12 months,
19 to influence the governmental decisionmaking of a reporting
20 individual or procurement employee or his or her agency or
21 seeks, or sought during the preceding 12 months, to encourage
22 the passage, defeat, or modification of any proposal or
23 recommendation by the reporting individual or procurement
24 employee or his or her agency.

25 2. With respect to an agency that has established by
26 rule, ordinance, or law a registration process for persons
27 seeking to influence decisionmaking or to encourage the
28 passage, defeat, or modification of any proposal or
29 recommendation by such agency or an employee or official of
30 the agency, the term "lobbyist" includes only a person who is
31 required to be registered as a lobbyist in accordance with

1 such rule, ordinance, or law or who was during the preceding
2 12 months required to be registered as a lobbyist in
3 accordance with such rule, ordinance, or law. At a minimum,
4 such a registration system must require the registration of,
5 or must designate, persons as "lobbyists" who engage in the
6 same activities as require registration to lobby the
7 Legislature pursuant to s. 11.045.

8 (c) "Person" includes individuals, firms,
9 associations, joint ventures, partnerships, estates, trusts,
10 business trusts, syndicates, fiduciaries, corporations, and
11 all other groups or combinations.

12 (d) "Reporting individual" means any individual,
13 including a candidate, who is required by law, pursuant to s.
14 8, Art. II of the State Constitution or s. 112.3145, to file
15 full or limited public disclosure of his or her financial
16 interests or any individual who has been elected to, but has
17 yet to officially assume the responsibilities of, public
18 office. For purposes of implementing this section, the
19 "agency" of a reporting individual who is not an officer or
20 employee in public service is the agency to which the
21 candidate seeks election, or in the case of an individual
22 elected to but yet to formally take office, the agency in
23 which the individual has been elected to serve.

24 (e) "Procurement employee" means any employee of an
25 officer, department, board, commission, or council of the
26 executive branch or judicial branch of state government who
27 participates through decision, approval, disapproval,
28 recommendation, preparation of any part of a purchase request,
29 influencing the content of any specification or procurement
30 standard, rendering of advice, investigation, or auditing or
31 in any other advisory capacity in the procurement of

1 contractual services or commodities as defined in s. 287.012,
2 if the cost of such services or commodities exceeds \$1,000 in
3 any year.

4 (3) A reporting individual or procurement employee is
5 prohibited from soliciting any gift from a political committee
6 or committee of continuous existence, as defined in s.
7 106.011, or from a lobbyist who lobbies the reporting
8 individual's or procurement employee's agency, or the partner,
9 firm, employer, or principal of such lobbyist, where such gift
10 is for the personal benefit of the reporting individual or
11 procurement employee, another reporting individual or
12 procurement employee, or any member of the immediate family of
13 a reporting individual or procurement employee.

14 (4) A reporting individual or procurement employee or
15 any other person on his or her behalf is prohibited from
16 knowingly accepting, directly or indirectly, a gift from a
17 political committee or committee of continuous existence, as
18 defined in s. 106.011, or from a lobbyist who lobbies the
19 reporting individual's or procurement employee's agency, or
20 directly or indirectly on behalf of the partner, firm,
21 employer, or principal of a lobbyist, if he or she knows or
22 reasonably believes that the gift has a value in excess of
23 \$100; however, such a gift may be accepted by such person on
24 behalf of a governmental entity or a charitable organization.
25 If the gift is accepted on behalf of a governmental entity or
26 charitable organization, the person receiving the gift shall
27 not maintain custody of the gift for any period of time beyond
28 that reasonably necessary to arrange for the transfer of
29 custody and ownership of the gift.

30 (5)(a) A political committee or a committee of
31 continuous existence, as defined in s. 106.011; a lobbyist who

1 lobbies a reporting individual's or procurement employee's
2 agency; the partner, firm, employer, or principal of a
3 lobbyist; or another on behalf of the lobbyist or partner,
4 firm, principal, or employer of the lobbyist is prohibited
5 from giving, either directly or indirectly, a gift that has a
6 value in excess of \$100 to the reporting individual or
7 procurement employee or any other person on his or her behalf;
8 however, such person may give a gift having a value in excess
9 of \$100 to a reporting individual or procurement employee if
10 the gift is intended to be transferred to a governmental
11 entity or a charitable organization.

12 (b) However, a person who is regulated by this
13 subsection, who is not regulated by subsection (6), and who
14 makes, or directs another to make, an individual gift having a
15 value in excess of \$25, but not in excess of \$100, other than
16 a gift which the donor knows will be accepted on behalf of a
17 governmental entity or charitable organization, must file a
18 report on the last day of each calendar quarter, for the
19 previous calendar quarter in which a reportable gift is made.
20 The report shall be filed with the Commission on Ethics
21 ~~Secretary of State~~, except with respect to gifts to reporting
22 individuals of the legislative branch, in which case the
23 report shall be filed with the Division of Legislative
24 Information Services in the Office of Legislative Services.
25 The report must contain a description of each gift, the
26 monetary value thereof, the name and address of the person
27 making such gift, the name and address of the recipient of the
28 gift, and the date such gift is given. In addition, when a
29 gift is made which requires the filing of a report under this
30 subsection, the donor must notify the intended recipient at
31 the time the gift is made that the donor, or another on his or

1 her behalf, will report the gift under this subsection. Under
2 this paragraph, a gift need not be reported by more than one
3 person or entity.

4 (6)(a) Notwithstanding the provisions of subsection
5 (5), an entity of the legislative or judicial branch, a
6 department or commission of the executive branch, a water
7 management district created pursuant to s. 373.069, Tri-County
8 Commuter Rail Authority, a county, a municipality, an airport
9 authority, or a school board may give, either directly or
10 indirectly, a gift having a value in excess of \$100 to any
11 reporting individual or procurement employee if a public
12 purpose can be shown for the gift; and a direct-support
13 organization specifically authorized by law to support a
14 governmental entity may give such a gift to a reporting
15 individual or procurement employee who is an officer or
16 employee of such governmental entity.

17 (b) Notwithstanding the provisions of subsection (4),
18 a reporting individual or procurement employee may accept a
19 gift having a value in excess of \$100 from an entity of the
20 legislative or judicial branch, a department or commission of
21 the executive branch, a water management district created
22 pursuant to s. 373.069, Tri-County Commuter Rail Authority, a
23 county, a municipality, an airport authority, or a school
24 board if a public purpose can be shown for the gift; and a
25 reporting individual or procurement employee who is an officer
26 or employee of a governmental entity supported by a
27 direct-support organization specifically authorized by law to
28 support such governmental entity may accept such a gift from
29 such direct-support organization.

30 (c) No later than March 1 of each year, each
31 governmental entity or direct-support organization

1 specifically authorized by law to support a governmental
2 entity which has given a gift to a reporting individual or
3 procurement employee under paragraph (a) shall provide the
4 reporting individual or procurement employee with a statement
5 of each gift having a value in excess of \$100 given to such
6 reporting individual or procurement employee by the
7 governmental entity or direct-support organization during the
8 preceding calendar year. Such report shall contain a
9 description of each gift, the date on which the gift was
10 given, and the value of the total gifts given by the
11 governmental entity or direct-support organization to the
12 reporting individual or procurement employee during the
13 calendar year for which the report is made. A governmental
14 entity may provide a single report to the reporting individual
15 or procurement employee of gifts provided by the governmental
16 entity and any direct-support organization specifically
17 authorized by law to support such governmental entity.

18 (d) No later than July 1 of each year, each reporting
19 individual or procurement employee shall file a statement
20 listing each gift having a value in excess of \$100 received by
21 the reporting individual or procurement employee, either
22 directly or indirectly, from a governmental entity or a
23 direct-support organization specifically authorized by law to
24 support a governmental entity. The statement shall list the
25 name of the person providing the gift, a description of the
26 gift, the date or dates on which the gift was given, and the
27 value of the total gifts given during the calendar year for
28 which the report is made. The reporting individual or
29 procurement employee shall attach to such statement any report
30 received by him or her in accordance with paragraph (c), which
31 report shall become a public record when filed with the

1 statement of the reporting individual or procurement employee.
2 The reporting individual or procurement employee may explain
3 any differences between the report of the reporting individual
4 or procurement employee and the attached reports. The annual
5 report filed by a reporting individual shall be filed with the
6 financial disclosure statement required by either s. 8, Art.
7 II of the State Constitution or s. 112.3145, as applicable to
8 the reporting individual. The annual report filed by a
9 procurement employee shall be filed with the Commission on
10 Ethics ~~Department of State~~.

11 (7)(a) The value of a gift provided to a reporting
12 individual or procurement employee shall be based on its fair
13 market value ~~determined using actual cost to the donor~~, less
14 taxes and gratuities, except as otherwise provided in this
15 subsection, and, with respect to personal services provided by
16 the donor, the reasonable and customary charge regularly
17 charged for such service in the community in which the service
18 is provided shall be used. If additional expenses are
19 required as a condition precedent to eligibility of the donor
20 to purchase or provide a gift and such expenses are primarily
21 for the benefit of the donor or are of a charitable nature,
22 such expenses shall not be included in determining the value
23 of the gift.

24 (b) Compensation provided by the donee to the donor,
25 if provided within 90 days of receipt, shall be deducted from
26 the value of the gift in determining the value of the gift.

27 (c) If the actual gift value attributable to
28 individual participants at an event cannot be determined, the
29 total costs shall be prorated among all invited persons,
30 whether or not they are reporting individuals or procurement
31 employees.

1 (d) Transportation shall be valued on a round-trip
2 basis unless only one-way transportation is provided.
3 Round-trip transportation expenses shall be considered a
4 single gift. Transportation provided in a private conveyance
5 shall be given the same value as transportation provided in a
6 comparable commercial conveyance.

7 (e) Lodging provided on consecutive days shall be
8 considered a single gift. Lodging in a private residence
9 shall be valued at the per diem rate provided in s.
10 112.061(6)(a)1. less the meal allowance rate provided in s.
11 112.061(6)(b).

12 (f) Food and beverages which are not consumed at a
13 single sitting or meal and which are provided on the same
14 calendar day shall be considered a single gift, and the total
15 value of all food and beverages provided on that date shall be
16 considered the value of the gift. Food and beverage consumed
17 at a single sitting or meal shall be considered a single gift
18 and the value of the food and beverage provided at that
19 sitting or meal shall be considered the value of the gift.

20 (g) Membership dues paid to the same organization
21 during any 12-month period shall be considered a single gift.

22 (h) Entrance fees, admission fees, or tickets shall be
23 valued on the face value of the ticket or fee, or on a daily
24 or per event basis, whichever is greater.

25 (i) Except as otherwise specified in this section, a
26 gift shall be valued on a per occurrence basis.

27 (j) The value of a gift provided to several
28 individuals may be attributed on a pro rata basis among all of
29 the individuals. If the gift is food, beverage, entertainment,
30 or similar items, provided at a function for more than 10
31 people, the value of the gift to each individual shall be the

1 total value of the items provided divided by the number of
2 persons invited to the function, unless the items are
3 purchased on a per person basis, in which case the value of
4 the gift to each person is the per person cost.

5 (k) The value of a gift of an admission ticket shall
6 not include that portion of the cost which represents a
7 charitable contribution, if the gift is provided by the
8 charitable organization.

9 (8)(a) Each reporting individual or procurement
10 employee shall file a statement with the Commission on Ethics
11 ~~Secretary of State~~ on the last day of each calendar quarter,
12 for the previous calendar quarter, containing a list of gifts
13 which he or she believes to be in excess of \$100 in value, if
14 any, accepted by him or her, for which compensation was not
15 provided by the donee to the donor within 90 days of receipt
16 of the gift to reduce the value to \$100 or less, except the
17 following:

- 18 1. Gifts from relatives.
- 19 2. Gifts prohibited by subsection (4) or s.
20 112.313(4).
- 21 3. Gifts otherwise required to be disclosed by this
22 section.

23 (b) The statement shall include:

24 1. A description of the gift, the monetary value of
25 the gift, the name and address of the person making the gift,
26 and the dates thereof. If any of these facts, other than the
27 gift description, are unknown or not applicable, the report
28 shall so state.

29 2. A copy of any receipt for such gift provided to the
30 reporting individual or procurement employee by the donor.

31

1 (c) The statement may include an explanation of any
2 differences between the reporting individual's or procurement
3 employee's statement and the receipt provided by the donor.

4 (d) The reporting individual's or procurement
5 employee's statement shall be sworn to by such person as being
6 a true, accurate, and total listing of all such gifts.

7 (e) If a reporting individual or procurement employee
8 has not received any gifts described in paragraph (a) during a
9 calendar quarter, he or she is not required to file a
10 statement under this subsection for that calendar quarter.

11 (9) A person, other than a lobbyist regulated under s.
12 11.045, who violates the provisions of subsection (5) commits
13 a noncriminal infraction, punishable by a fine of not more
14 than \$5,000 and by a prohibition on lobbying, or employing a
15 lobbyist to lobby, before the agency of the reporting
16 individual or procurement employee to which the gift was given
17 in violation of subsection (5), for a period of not more than
18 24 months. The state attorney, or an agency, if otherwise
19 authorized, may initiate an action to impose or recover a fine
20 authorized under this section or to impose or enforce a
21 limitation on lobbying provided in this section.

22 (10) A member of the Legislature may request an
23 advisory opinion from the general counsel of the house of
24 which he or she is a member as to the application of this
25 section to a specific situation. The general counsel shall
26 issue the opinion within 10 days after receiving the request.
27 The member of the Legislature may reasonably rely on such
28 opinion.

29 Section 6. Subsection (6) of section 112.3149, Florida
30 Statutes, is amended to read:

31 112.3149 Solicitation and disclosure of honoraria.--

1 (6) A reporting individual or procurement employee who
2 receives payment or provision of expenses related to any
3 honorarium event from a person who is prohibited by subsection
4 (4) from paying an honorarium to a reporting individual or
5 procurement employee shall publicly disclose on an annual
6 statement the name, address, and affiliation of the person
7 paying or providing the expenses; the amount of the honorarium
8 expenses; the date of the honorarium event; a description of
9 the expenses paid or provided on each day of the honorarium
10 event; and the total value of the expenses provided to the
11 reporting individual or procurement employee in connection
12 with the honorarium event. The annual statement of honorarium
13 expenses shall be filed by July 1 of each year for such
14 expenses received during the previous calendar year. The
15 reporting individual or procurement employee shall attach to
16 the annual statement a copy of each statement received by him
17 or her in accordance with subsection (5) regarding honorarium
18 expenses paid or provided during the calendar year for which
19 the annual statement is filed. Such attached statement shall
20 become a public record upon the filing of the annual report.
21 The annual statement of a reporting individual shall be filed
22 with the financial disclosure statement required by either s.
23 8, Art. II of the State Constitution or s. 112.3145, as
24 applicable to the reporting individual. The annual statement
25 of a procurement employee shall be filed with the Commission
26 on Ethics ~~Department of State~~.

27 Section 7. Section 112.3151, Florida Statutes, is
28 repealed.

29 Section 8. Subsections (1), (2), (6), (7), and (8) of
30 section 112.317, Florida Statutes, are amended to read:

31 112.317 Penalties.--

1 (1) Violation of any provision of this part,
2 including, but not limited to, any failure to file any
3 disclosures required by this part or violation of any standard
4 of conduct imposed by this part, or violation of any provision
5 of s. 8, Art. II of the State Constitution, in addition to any
6 criminal penalty or other civil penalty involved, shall,
7 pursuant to applicable constitutional and statutory
8 procedures, constitute grounds for, and may be punished by,
9 one or more of the following:

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

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

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

- 26 1. Dismissal from employment.
- 27 2. Suspension from employment for not more than 90
28 days without pay.
- 29 3. Demotion.
- 30 4. Reduction in salary level.

31

1 5. Forfeiture of no more than one-third salary per
2 month for no more than 12 months.

3 6. A civil penalty not to exceed \$10,000.

4 7. Restitution of any pecuniary benefits received
5 because of the violation committed. The commission may
6 recommend that the restitution penalty be paid to the agency
7 by which such employee was employed or by which such officer
8 was deemed to be an employee or to the General Revenue Fund of
9 the state.

10 8. Public censure and reprimand.

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

14 1. Disqualification from being on the ballot.

15 2. Public censure.

16 3. Reprimand.

17 4. A civil penalty not to exceed \$10,000.

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

22 1. Public censure and reprimand.

23 2. A civil penalty not to exceed \$10,000.

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

29 (2) In any case in which the commission finds a
30 violation of this part or of s. 8, Art. II of the State
31 Constitution and the proper disciplinary official or body

1 under s. 112.324 imposes ~~recommends~~ a civil penalty or
2 restitution penalty, the Attorney General shall bring a civil
3 action to recover such penalty. No defense may be raised in
4 the civil action to enforce the civil penalty or order of
5 restitution that could have been raised by judicial review of
6 the administrative findings and recommendations of the
7 commission by certiorari to the district court of appeal. The
8 Attorney General shall be entitled to collect any costs,
9 attorney's fees, expert witness fees, or other costs of
10 collection incurred in bringing such actions.

11 ~~(6) Any person who willfully discloses, or permits to~~
12 ~~be disclosed, his or her intention to file a complaint, the~~
13 ~~existence or contents of a complaint which has been filed with~~
14 ~~the commission, or any document, action, or proceeding in~~
15 ~~connection with a confidential preliminary investigation of~~
16 ~~the commission, before such complaint, document, action, or~~
17 ~~proceeding becomes a public record as provided herein commits~~
18 ~~a misdemeanor of the first degree, punishable as provided in~~
19 ~~s. 775.082 or s. 775.083.~~

20 (6)(7) In any case in which the commission finds
21 probable cause to believe that a complainant has committed
22 perjury in regard to any document filed with, or any testimony
23 given before, the commission, it shall refer such evidence to
24 the appropriate law enforcement agency for prosecution and
25 taxation of costs.

26 (7)(8) In any case in which the commission determines
27 that a person has filed a complaint against a public officer
28 or employee with a malicious intent to injure the reputation
29 of such officer or employee by filing the complaint with
30 knowledge that the complaint contains one or more false
31 allegations or with reckless disregard for whether the

1 | complaint contains false allegations of fact material to a
2 | violation of this part, the complainant shall be liable for
3 | costs plus reasonable attorney's fees incurred in the defense
4 | of the person complained against, including the costs and
5 | reasonable attorney's fees incurred in proving entitlement to
6 | and the amount of costs and fees. If the complainant fails to
7 | pay such costs and fees voluntarily within 30 days following
8 | such finding by the commission, the commission shall forward
9 | such information to the Department of Legal Affairs, which
10 | shall bring a civil action in a court of competent
11 | jurisdiction to recover the amount of such costs and fees
12 | awarded by the commission.

13 | Section 9. Subsection (3) of section 112.324, Florida
14 | Statutes, is amended to read:

15 | 112.324 Procedures on complaints of violations.--

16 | (3) If, in cases pertaining to current members of the
17 | Legislature, upon completion of a full and final investigation
18 | by the commission, the commission finds that there has been a
19 | violation of this part or of any provision of s. 8, Art. II of
20 | the State Constitution, irrespective of whether the violative
21 | act or omission occurred before or during the current member's
22 | term of office, the commission shall forward a copy of the
23 | complaint and its findings by certified mail to the President
24 | of the Senate or the Speaker of the House of Representatives,
25 | whichever is applicable, who shall refer the complaint to the
26 | appropriate committee for investigation and action which shall
27 | be governed by the rules of its respective house. It shall be
28 | the duty of the committee to report its final action upon the
29 | complaint to the commission within 90 days of the date of
30 | transmittal to the respective house. Upon request of the
31 | committee, the commission shall submit a recommendation as to

1 what penalty, if any, should be imposed. In the case of a
2 member of the Legislature, the house in which the member
3 serves shall have the power to invoke the penalty provisions
4 of this part.

5 Section 10. Section 914.21, Florida Statutes, is
6 amended to read:

7 914.21 Definitions.--As used in ss. 914.22-914.24, the
8 term:

9 (1) "Bodily injury" means:

10 (a) A cut, abrasion, bruise, burn, or disfigurement;

11 (b) Physical pain;

12 (c) Illness;

13 (d) Impairment of the function of a bodily member,
14 organ, or mental faculty; or

15 (e) Any other injury to the body, no matter how
16 temporary.

17 (2) "Misleading conduct" means:

18 (a) Knowingly making a false statement;

19 (b) Intentionally omitting information from a
20 statement and thereby causing a portion of such statement to
21 be misleading, or intentionally concealing a material fact and
22 thereby creating a false impression by such statement;

23 (c) With intent to mislead, knowingly submitting or
24 inviting reliance on a writing or recording that is false,
25 forged, altered, or otherwise lacking in authenticity;

26 (d) With intent to mislead, knowingly submitting or
27 inviting reliance on a sample, specimen, map, photograph,
28 boundary mark, or other object that is misleading in a
29 material respect; or

30 (e) Knowingly using a trick, scheme, or device with
31 intent to mislead.

1 (3) "Official investigation" means any investigation
2 instituted by a law enforcement agency or prosecuting officer
3 of the state or a political subdivision of the state, or any
4 investigation conducted by the Florida Commission on Ethics.

5 (4) "Official proceeding" means:

6 (a) A proceeding before a judge or court or a grand
7 jury;

8 (b) A proceeding before the Legislature; or

9 (c) A proceeding before a federal agency which is
10 authorized by law.

11 (d) A proceeding before the Florida Commission on
12 Ethics.

13 (5) "Physical force" means physical action against
14 another and includes confinement.

15 Section 11. Subsection (9) of section 112.322, Florida
16 Statutes, is repealed.

17 Section 12. Subsection (6) of section 440.442, Florida
18 Statutes, is amended to read:

19 440.442 Code of Judicial Conduct.--The Chief Judge,
20 and judges of compensation claims shall observe and abide by
21 the Code of Judicial Conduct as provided in this section. Any
22 material violation of a provision of the Code of Judicial
23 Conduct shall constitute either malfeasance or misfeasance in
24 office and shall be grounds for suspension and removal of such
25 Chief Judge, or judge of compensation claims by the Governor.

26 (6) FISCAL MATTERS OF JUDGES.--Fiscal matters of a
27 judge should be conducted in a manner that will not give the
28 appearance of influence or impropriety. A judge should
29 regularly file public reports as required by s. 8, Art. II of
30 the State Constitution, and should publicly report gifts.

31

1 (a) Compensation for quasi-judicial and extrajudicial
2 services and reimbursement of expenses.--A judge may receive
3 compensation and reimbursement of expenses for the
4 quasi-judicial and extrajudicial activities permitted by this
5 section, if the source of such payments does not give the
6 appearance of influencing the judge in his or her judicial
7 duties or otherwise give the impression of impropriety subject
8 to the following restrictions:

9 1. Compensation: Compensation should not exceed a
10 reasonable amount nor should it exceed what a person who is
11 not a judge would receive for the same activity.

12 2. Expense reimbursement: Expense reimbursement
13 should be limited to the actual cost of travel, food, and
14 lodging reasonably incurred by the judge and, where
15 appropriate to the occasion, to his or her spouse. Any payment
16 in excess of such an amount is compensation.

17 (b) Public financial reporting.--

18 1. Income and assets: A judge shall file such public
19 reports as may be required by law for all public officials to
20 comply fully with the provisions of s. 8, Art. II of the State
21 Constitution. The form for public financial disclosure shall
22 be that recommended or adopted by the Florida Commission on
23 Ethics for use by all public officials. The form shall be
24 filed in the office of the Commission on Ethics ~~Secretary of~~
25 ~~State~~ on the date prescribed by law.

26 2. Gifts: A judge shall file a public report of all
27 gifts which are required to be disclosed under Canon 5D(5)(h)
28 ~~s. 112 [Canon 5C(4)(c)]~~ of the Code of Judicial Conduct. The
29 report of gifts received in the preceding calendar year shall
30 be filed in the office of the Commission on Ethics ~~Secretary~~
31 ~~of State~~ on or before July 1 of each year.

1 Section 13. Sections 839.08, 839.09, 839.091, and
2 839.10, Florida Statutes, are repealed.

3 Section 14. Section 112.3232, Florida Statutes, is
4 created to read:

5 112.3232 Compelled testimony.--If any person called to
6 testify in a commission proceeding refuses to testify because
7 of a claim of possible self-incrimination, the commission,
8 after consultation with the appropriate state attorney, may
9 apply to the chief judge of the appropriate judicial circuit
10 for a judicial grant of immunity ordering the testimony of
11 such person notwithstanding his or her objection, but in such
12 case any testimony or other information compelled under the
13 order, or any information directly or indirectly derived from
14 such testimony or other information, may not be used against
15 the witness in any criminal prosecution or commission
16 proceeding.

17 Section 15. The sum of \$193,950 is appropriated from
18 the General Revenue Fund to the Commission on Ethics to
19 administer the responsibilities imposed upon it by this act.

20 Section 16. This act shall take effect January 1,
21 2001.

22
23 *****

24 SENATE SUMMARY

25 Revises reporting requirements for disclosure of
26 financial interests under the code of ethics for public
27 officers and employees. Revises some fines and transfers
28 the administration of specific sections of the code of
ethics from the Secretary of State to the Commission on
Ethics. Provides an appropriation.