

By Senator Sebesta

16-1554-03

1                                   A bill to be entitled  
2           An act relating to public officers and  
3           employees; amending s. 112.313, F.S.;  
4           prohibiting a current or former public officer  
5           or employee from disclosing or using certain  
6           information for personal benefit or gain;  
7           providing that an agency employee whose  
8           position was transferred from the Career  
9           Service System to the Selected Exempt Service  
10          is exempt from certain restrictions placed on  
11          legislators and legislative employees;  
12          prohibiting an elected officer from  
13          representing another person or entity for  
14          compensation before an agency of which the  
15          individual was an officer or member for a  
16          specified period following vacation of office;  
17          amending s. 112.3144, F.S.; requiring that the  
18          amount reported on the statement of financial  
19          interests regarding assets or liabilities in  
20          excess of a certain amount held jointly with  
21          another person be based on the reporting  
22          individual's percentage of ownership or  
23          liability; providing exceptions; amending s.  
24          112.3145, F.S.; increasing the fine for the  
25          late filing of a statement of financial  
26          interests; changing the date by which each  
27          supervisor of elections must certify to the  
28          commission a list of all persons who have  
29          failed to timely file the required statement of  
30          financial interests; amending s. 112.3147,  
31          F.S.; deleting certain requirements for

1 reporting financial assets and liabilities  
2 valued at a certain amount; amending ss.  
3 112.3148 and 112.3149, F.S.; providing a due  
4 date for filing reports or statements with the  
5 Commission on Ethics by an individual who left  
6 office or employment during the calendar year;  
7 amending s. 112.317, F.S.; deleting a penalty  
8 imposed for disclosing an intent to file a  
9 complaint in connection with a confidential  
10 preliminary investigation of the commission;  
11 providing that restitution for violation of the  
12 code of ethics be paid to the public officer's  
13 or employee's agency or to the General Revenue  
14 Fund; providing that the Attorney General may  
15 collect costs and attorney's fees for bringing  
16 an action for a violation of the code of  
17 ethics; amending s. 112.3185, F.S.; providing  
18 an exception to the prohibition against a  
19 retired or terminated employee having an  
20 employment or contractual relationship with a  
21 business entity that was under contract with  
22 the employee's agency; requiring prior written  
23 approval by the agency head; prohibiting a  
24 retired or terminated employee from engaging in  
25 activities involving certain official matters  
26 on behalf of another person or entity; amending  
27 s. 112.3215, F.S.; requiring the Commission on  
28 Ethics to provide by rule grounds for waiving a  
29 fine assessed against a lobbyist who fails to  
30 timely file a report and procedures for appeal;  
31 amending s. 112.322, F.S.; providing that a

1 witness who is required to travel outside the  
2 county of his or her residence is entitled to  
3 per diem and travel expenses; amending s.  
4 914.21, F.S.; expanding the definition of the  
5 terms "official investigation" and "official  
6 proceeding" to include any investigation  
7 conducted by or proceeding before the  
8 Commission on Ethics; providing an effective  
9 date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Subsections (8), (9), (12), and (14) of  
14 section 112.313, Florida Statutes, are amended to read:

15 112.313 Standards of conduct for public officers,  
16 employees of agencies, and local government attorneys.--

17 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--A  
18 current or former ~~No~~ public officer, employee of an agency, or  
19 local government attorney may not ~~shall~~ disclose or use  
20 information not available to members of the general public and  
21 gained by reason of his or her official position, except for  
22 information relating exclusively to governmental practices or  
23 procedures, for his or her personal gain or benefit or for the  
24 personal gain or benefit of any other person or business  
25 entity.

26 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT  
27 FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

28 (a)1. It is the intent of the Legislature to implement  
29 by statute the provisions of s. 8(e), Art. II of the State  
30 Constitution relating to legislators, statewide elected  
31

1 officers, appointed state officers, and designated public  
2 employees.

3 2. As used in this paragraph:

4 a. "Employee" means:

5 (I) Any person employed in the executive or  
6 legislative branch of government holding a position in the  
7 Senior Management Service as defined in s. 110.402 or any  
8 person holding a position in the Selected Exempt Service as  
9 defined in s. 110.602 or any person having authority over  
10 policy or procurement employed by the Department of the  
11 Lottery.

12 (II) The Auditor General, the director of the Office  
13 of Program Policy Analysis and Government Accountability, the  
14 Sergeant at Arms and Secretary of the Senate, and the Sergeant  
15 at Arms and Clerk of the House of Representatives.

16 (III) The executive director of the Legislative  
17 Committee on Intergovernmental Relations and the executive  
18 director and deputy executive director of the Commission on  
19 Ethics.

20 (IV) An executive director, staff director, or deputy  
21 staff director of each joint committee, standing committee, or  
22 select committee of the Legislature; an executive director,  
23 staff director, executive assistant, analyst, or attorney of  
24 the Office of the President of the Senate, the Office of the  
25 Speaker of the House of Representatives, the Senate Majority  
26 Party Office, Senate Minority Party Office, House Majority  
27 Party Office, or House Minority Party Office; or any person,  
28 hired on a contractual basis, having the power normally  
29 conferred upon such persons, by whatever title.

30 (V) The Chancellor and Vice Chancellors of the State  
31 University System; the general counsel to the Board of

1 Regents; and the president, vice presidents, and deans of each  
2 state university.

3 (VI) Any person having the power normally conferred  
4 upon the positions referenced in this sub-subparagraph.

5 b. "Appointed state officer" means any member of an  
6 appointive board, commission, committee, council, or authority  
7 of the executive or legislative branch of state government  
8 whose powers, jurisdiction, and authority are not solely  
9 advisory and include the final determination or adjudication  
10 of any personal or property rights, duties, or obligations,  
11 other than those relative to its internal operations.

12 c. "State agency" means an entity of the legislative,  
13 executive, or judicial branch of state government over which  
14 the Legislature exercises plenary budgetary and statutory  
15 control.

16 3. No member of the Legislature, appointed state  
17 officer, or statewide elected officer shall personally  
18 represent another person or entity for compensation before the  
19 government body or agency of which the individual was an  
20 officer or member for a period of 2 years following vacation  
21 of office. No member of the Legislature shall personally  
22 represent another person or entity for compensation during his  
23 or her term of office before any state agency other than  
24 judicial tribunals or in settlement negotiations after the  
25 filing of a lawsuit.

26 4. No agency employee shall personally represent  
27 another person or entity for compensation before the agency  
28 with which he or she was employed for a period of 2 years  
29 following vacation of position, unless employed by another  
30 agency of state government.

31

1           5. Any person violating this paragraph shall be  
2 subject to the penalties provided in s. 112.317 and a civil  
3 penalty of an amount equal to the compensation which the  
4 person receives for the prohibited conduct.

5           6. This paragraph is not applicable to:

6           a. A person employed by the Legislature or other  
7 agency prior to July 1, 1989;

8           b. A person who was employed by the Legislature or  
9 other agency on July 1, 1989, whether or not the person was a  
10 defined employee on July 1, 1989;

11           c. A person who was a defined employee of the State  
12 University System or the Public Service Commission who held  
13 such employment on December 31, 1994;

14           d. A person who has reached normal retirement age as  
15 defined in s. 121.021(29), and who has retired under the  
16 provisions of chapter 121 by July 1, 1991; ~~or~~

17           e. Any appointed state officer whose term of office  
18 began before January 1, 1995, unless reappointed to that  
19 office on or after January 1, 1995; or-

20           f. An agency employee whose position was transferred  
21 from the Career Service System to the Selected Exempt Service  
22 under chapter 2001-43, Laws of Florida.

23           (b) In addition to the provisions of this part which  
24 are applicable to legislators and legislative employees by  
25 virtue of their being public officers or employees, the  
26 conduct of members of the Legislature and legislative  
27 employees shall be governed by the ethical standards provided  
28 in the respective rules of the Senate or House of  
29 Representatives which are not in conflict herewith.

30           (12) EXEMPTION.--The requirements of subsections (3)  
31 and (7) as they pertain to persons serving on advisory boards

1 may be waived in a particular instance by the body which  
2 appointed the person to the advisory board, upon a full  
3 disclosure of the transaction or relationship to the  
4 appointing body prior to the waiver and an affirmative vote in  
5 favor of waiver by two-thirds vote of that body. In instances  
6 in which appointment to the advisory board is made by an  
7 individual, waiver may be effected, after public hearing, by a  
8 determination by the appointing person and full disclosure of  
9 the transaction or relationship by the appointee to the  
10 appointing person. In addition, no person shall be held in  
11 violation of subsection (3) or subsection (7) if:

12 (a) Within a city or county the business is transacted  
13 under a rotation system whereby the business transactions are  
14 rotated among all qualified suppliers of the goods or services  
15 within the city or county.

16 (b) The business is awarded under a system of sealed,  
17 competitive bidding to the lowest or best bidder and:

18 1. The official or the official's spouse or child has  
19 in no way participated in the determination of the bid  
20 specifications or the determination of the lowest or best  
21 bidder;

22 2. The official or the official's spouse or child has  
23 in no way used or attempted to use the official's influence to  
24 persuade the agency or any personnel thereof to enter such a  
25 contract other than by the mere submission of the bid; and

26 3. The official, prior to or at the time of the  
27 submission of the bid, has filed a statement with the  
28 Commission on Ethics ~~Department of State~~, if the official is a  
29 state officer or employee, or with the supervisor of elections  
30 of the county in which the agency has its principal office, if  
31 the official is an officer or employee of a political

1 subdivision, disclosing the official's interest, or the  
2 interest of the official's spouse or child, and the nature of  
3 the intended business.

4 (c) The purchase or sale is for legal advertising in a  
5 newspaper, for any utilities service, or for passage on a  
6 common carrier.

7 (d) An emergency purchase or contract which would  
8 otherwise violate a provision of subsection (3) or subsection  
9 (7) must be made in order to protect the health, safety, or  
10 welfare of the citizens of the state or any political  
11 subdivision thereof.

12 (e) The business entity involved is the only source of  
13 supply within the political subdivision of the officer or  
14 employee and there is full disclosure by the officer or  
15 employee of his or her interest in the business entity to the  
16 governing body of the political subdivision prior to the  
17 purchase, rental, sale, leasing, or other business being  
18 transacted.

19 (f) The total amount of the transactions in the  
20 aggregate between the business entity and the agency does not  
21 exceed \$500 per calendar year.

22 (g) The fact that a county or municipal officer or  
23 member of a public board or body, including a district school  
24 officer or an officer of any district within a county, is a  
25 stockholder, officer, or director of a bank will not bar such  
26 bank from qualifying as a depository of funds coming under the  
27 jurisdiction of any such public board or body, provided it  
28 appears in the records of the agency that the governing body  
29 of the agency has determined that such officer or member of a  
30 public board or body has not favored such bank over other  
31 qualified banks.



1           (h) The transaction is made pursuant to s. 1004.22 or  
2 s. 1004.23 and is specifically approved by the president and  
3 the chair of the university board of trustees. The chair of  
4 the university board of trustees shall submit to the Governor  
5 and the Legislature by March 1 of each year a report of the  
6 transactions approved pursuant to this paragraph during the  
7 preceding year.

8           (i) The public officer or employee purchases in a  
9 private capacity goods or services, at a price and upon terms  
10 available to similarly situated members of the general public,  
11 from a business entity which is doing business with his or her  
12 agency.

13           (j) The public officer or employee in a private  
14 capacity purchases goods or services from a business entity  
15 which is subject to the regulation of his or her agency and:

16           1. The price and terms of the transaction are  
17 available to similarly situated members of the general public;  
18 and

19           2. The officer or employee makes full disclosure of  
20 the relationship to the agency head or governing body prior to  
21 the transaction.

22           (14) LOBBYING BY FORMER LOCAL OFFICERS;  
23 PROHIBITION.--A person who has been elected to any county,  
24 municipal, special district, or school district office may not  
25 personally represent another person or entity for compensation  
26 before the government governing body or agency of which the  
27 person was an officer for a period of 2 years after vacating  
28 that office.

29           Section 2. Present subsections (4), (5), and (6) of  
30 section 112.3144, Florida Statutes, are redesignated as  
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1 subsections (5), (6), and (7), respectively, and new  
2 subsection (4) is added to that section to read:

3           112.3144 Full and public disclosure of financial  
4 interests.--

5           (4)(a) With respect to reporting assets valued in  
6 excess of \$1,000 on forms prescribed under this section which  
7 the reporting individual holds jointly with another person,  
8 the amount reported shall be based on the reporting  
9 individual's legal percentage of ownership in the property,  
10 except that assets held jointly, with right of survivorship,  
11 shall be reported at 100 percent of the value of the asset.  
12 For purposes of this subsection, a reporting individual is  
13 deemed to own an interest in a partnership which corresponds  
14 to the reporting individual's interest in the capital or  
15 equity of the partnership.

16           (b)1. With respect to reporting liabilities valued in  
17 excess of \$1,000 on forms prescribed under this section for  
18 which the reporting individual is jointly and severally  
19 liable, the amount reported shall be based upon the reporting  
20 individual's percentage of liability rather than the total  
21 amount of the liability, except as to debt secured by property  
22 owned by the reporting individual which is held jointly, with  
23 right of survivorship, which liability shall be reported at  
24 100 percent of the total amount owed.

25           2. A separate section of the form shall be created to  
26 provide for the reporting of the amounts of joint and several  
27 liability of the reporting individual not otherwise reported  
28 in subparagraph (b)1.

29           Section 3. Subsection (6) of section 112.3145, Florida  
30 Statutes, is amended to read:

31

1           112.3145 Disclosure of financial interests and clients  
2 represented before agencies.--

3           (6) Forms for compliance with the disclosure  
4 requirements of this section and a current list of persons  
5 subject to disclosure shall be created by the commission and  
6 provided to each supervisor of elections. The commission and  
7 each supervisor of elections shall give notice of disclosure  
8 deadlines and delinquencies and distribute forms in the  
9 following manner:

10           (a)1. Not later than May 1 of each year, the  
11 commission shall prepare a current list of the names and  
12 addresses of, and the offices or positions held by, every  
13 state officer, local officer, and specified employee. In  
14 compiling the list, the commission shall be assisted by each  
15 unit of government in providing, at the request of the  
16 commission, the name, address, and name of agency of, and the  
17 office or position held by, each state officer, local officer,  
18 or specified state employee within the respective unit of  
19 government.

20           2. Not later than May 15 of each year, the commission  
21 shall provide each supervisor of elections with a current  
22 mailing list of all local officers required to file with such  
23 supervisor of elections.

24           (b) Not later than 30 days before July 1 of each year,  
25 the commission and each supervisor of elections, as  
26 appropriate, shall mail a copy of the form prescribed for  
27 compliance with subsection (3) and a notice of all applicable  
28 disclosure forms and filing deadlines to each person required  
29 to file a statement of financial interests.

30           (c) Not later than 30 days after July 1 of each year,  
31 the commission and each supervisor of elections shall

1 determine which persons required to file a statement of  
2 financial interests in their respective offices have failed to  
3 do so and shall send delinquency notices by certified mail to  
4 such persons. Each notice shall state that a grace period is  
5 in effect until September 1 of the current year; that no  
6 investigative or disciplinary action based upon the  
7 delinquency will be taken by the agency head or commission if  
8 the statement is filed by September 1 of the current year;  
9 that, if the statement is not filed by September 1 of the  
10 current year, a fine of \$300~~\$25 for each day late~~ will be  
11 imposed, ~~up to a maximum penalty of \$1,500~~; for notices sent  
12 by a supervisor of elections, that he or she is required by  
13 law to notify the commission of the delinquency; and that, if  
14 upon the filing of a sworn complaint the commission finds that  
15 the person has failed to timely file the statement by within  
16 ~~60 days after~~ September 1 of the current year, such person  
17 will also be subject to the penalties provided in s. 112.317.

18 (d) No later than October 1 ~~November 15~~ of each year,  
19 the supervisor of elections in each county shall certify to  
20 the commission a list of the names and addresses of, and the  
21 offices or positions held by, all persons who have failed to  
22 timely file the required statements of financial interests.  
23 ~~The certification must include the earliest of the dates~~  
24 ~~described in subparagraph (f)1.~~ The certification shall be on  
25 a form prescribed by the commission and shall indicate whether  
26 the supervisor of elections has provided the disclosure forms  
27 and notice as required by this subsection to all persons named  
28 on the delinquency list.

29 (e) Statements must be filed not later than 5 p.m. of  
30 the due date. However, any statement that is postmarked by the  
31 United States Postal Service by midnight of the due date is

1 deemed to have been filed in a timely manner, and a  
2 certificate of mailing obtained from and dated by the United  
3 States Postal Service at the time of the mailing, or a receipt  
4 from an established courier company which bears a date on or  
5 before the due date, constitutes proof of mailing in a timely  
6 manner.

7 (f) Any person who is required to file a statement of  
8 financial interests and whose name is on the commission's  
9 mailing list but who fails to timely file is assessed a fine  
10 of ~~\$300~~\$25 per day for each day late up to a maximum of  
11 ~~\$1,500~~; however, this ~~\$1,500 limitation on automatic fine~~  
12 ~~finer~~ does not limit the civil penalty that may be imposed if  
13 the statement is filed after September 1 ~~more than 60 days~~  
14 ~~after the deadline~~ and a complaint is filed, as provided in s.  
15 112.324. The commission must provide by rule the grounds for  
16 waiving the fine and procedures by which each person whose  
17 name is on the mailing list and who is determined to have not  
18 filed in a timely manner will be notified of assessed fines  
19 and may appeal. The rule must provide for and make specific  
20 the following:

21 1. The amount of the fine due is based upon the  
22 earliest of the following:

23 a. When a statement is actually received by the  
24 office.

25 b. When the statement is postmarked.

26 c. When the certificate of mailing is dated.

27 d. When the receipt from an established courier  
28 company is dated.

29 2. For a specified state employee or a state officer,  
30 upon receipt of the disclosure statement by the commission or  
31 upon accrual of the maximum penalty, whichever occurs first,

1 and for a local officer upon receipt by the commission of the  
2 certification from the local officer's supervisor of elections  
3 pursuant to paragraph (d), the commission shall determine the  
4 amount of the fine which is due and shall notify the  
5 delinquent person. The notice must include an explanation of  
6 the appeal procedure under subparagraph 3. The fine must be  
7 paid within 30 days after the notice of payment due is  
8 transmitted, unless appeal is made to the commission pursuant  
9 to subparagraph 3. The moneys are to be deposited into the  
10 General Revenue Fund.

11 3. Any reporting person may appeal or dispute a fine,  
12 based upon a failure of notice of the requirements to file the  
13 annual disclosure ~~unusual circumstances surrounding the~~  
14 ~~failure to file on the designated due date~~, and may request  
15 and is entitled to a hearing before the commission, which may  
16 waive the fine in whole or in part based upon a failure of  
17 adequate notice ~~for good cause shown~~. Any such request must be  
18 made within 30 days after the notice of payment due is  
19 transmitted. In such a case, the reporting person must, within  
20 the 30-day period, notify the person designated to review the  
21 timeliness of reports in writing of his or her intention to  
22 bring the matter before the commission.

23 (g) Any state officer, local officer, or specified  
24 employee whose name is not on the mailing list of persons  
25 required to file an annual statement of financial interests is  
26 not subject to the penalties provided in s. 112.317 or the  
27 fine provided in this section for failure to timely file a  
28 statement of financial interests in any year in which the  
29 omission occurred, but nevertheless is required to file the  
30 disclosure statement.

31

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

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

14           Section 4. Section 112.3147, Florida Statutes, is  
15 amended to read:

16           112.3147 Forms.--

17           ~~(1)~~ All information required to be furnished by ss.  
18 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149  
19 and by s. 8, Art. II of the State Constitution shall be on  
20 forms prescribed by the Commission on Ethics.

21           ~~(2)(a) With respect to reporting assets valued in~~  
22 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~  
23 ~~which the reporting individual holds jointly with another~~  
24 ~~person, the amount reported shall be based on the reporting~~  
25 ~~individual's legal percentage of ownership in the property,~~  
26 ~~except that assets held jointly with the reporting~~  
27 ~~individual's spouse shall be reported at 100 percent of the~~  
28 ~~value of the asset. For purposes of this subsection, a~~  
29 ~~reporting individual is deemed to own an interest in a~~  
30 ~~partnership which corresponds to the reporting individual's~~  
31 ~~interest in the capital or equity of the partnership.~~

1           ~~(b)1. With respect to reporting liabilities valued in~~  
2 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~  
3 ~~for which the reporting individual is jointly and severally~~  
4 ~~liable, the amount reported shall be based upon the reporting~~  
5 ~~individual's percentage of liability rather than the total~~  
6 ~~amount of the liability, except, a joint and several liability~~  
7 ~~with the reporting individual's spouse for a debt which~~  
8 ~~relates to property owned by both as tenants by the entirety~~  
9 ~~shall be reported at 100 percent of the total amount owed.~~

10           ~~2. A separate section of the form shall be created to~~  
11 ~~provide for the reporting of the amounts of joint and several~~  
12 ~~liability of the reporting individual not otherwise reported~~  
13 ~~in paragraph (a).~~

14           Section 5. Paragraph (d) of subsection (6) of section  
15 112.3148, Florida Statutes, is amended to read:

16           112.3148 Reporting and prohibited receipt of gifts by  
17 individuals filing full or limited public disclosure of  
18 financial interests and by procurement employees.--

19           (6)

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



1 received by him or her in accordance with paragraph (c), which  
2 report shall become a public record when filed with the  
3 statement of the reporting individual or procurement employee.  
4 The reporting individual or procurement employee may explain  
5 any differences between the report of the reporting individual  
6 or procurement employee and the attached reports. The annual  
7 report filed by a reporting individual shall be filed with the  
8 financial disclosure statement required by either s. 8, Art.  
9 II of the State Constitution or s. 112.3145, as applicable to  
10 the reporting individual. The annual report filed by a  
11 procurement employee shall be filed with the Commission on  
12 Ethics. The report filed by a reporting individual or  
13 procurement employee who left office or employment during the  
14 calendar year covered by the report shall be filed by July 1  
15 of the year after leaving office or employment at the same  
16 location as his or her final financial disclosure statement  
17 or, in the case of a former procurement employee, with the  
18 Commission on Ethics.

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

21 112.3149 Solicitation and disclosure of honoraria.--

22 (6) A reporting individual or procurement employee who  
23 receives payment or provision of expenses related to any  
24 honorarium event from a person who is prohibited by subsection  
25 (4) from paying an honorarium to a reporting individual or  
26 procurement employee shall publicly disclose on an annual  
27 statement the name, address, and affiliation of the person  
28 paying or providing the expenses; the amount of the honorarium  
29 expenses; the date of the honorarium event; a description of  
30 the expenses paid or provided on each day of the honorarium  
31 event; and the total value of the expenses provided to the

1 reporting individual or procurement employee in connection  
2 with the honorarium event. The annual statement of honorarium  
3 expenses shall be filed by July 1 of each year for such  
4 expenses received during the previous calendar year. The  
5 reporting individual or procurement employee shall attach to  
6 the annual statement a copy of each statement received by him  
7 or her in accordance with subsection (5) regarding honorarium  
8 expenses paid or provided during the calendar year for which  
9 the annual statement is filed. Such attached statement shall  
10 become a public record upon the filing of the annual report.  
11 The annual statement of a reporting individual shall be filed  
12 with the financial disclosure statement required by either s.  
13 8, Art. II of the State Constitution or s. 112.3145, as  
14 applicable to the reporting individual. The annual statement  
15 of a procurement employee shall be filed with the Commission  
16 on Ethics. The statement filed by a reporting individual or  
17 procurement employee who left office or employment during the  
18 calendar year covered by the statement shall be filed by July  
19 1 of the year after leaving office or employment at the same  
20 location as his or her final financial disclosure statement  
21 or, in the case of a former procurement employee, with the  
22 Commission on Ethics.

23 Section 7. Subsection (6) of section 112.317, Florida  
24 Statutes, is repealed, present subsections (7) and (8) of that  
25 section are redesignated as subsections (6) and (7),  
26 respectively, and subsections (1) and (2) of that section are  
27 amended, to read:

28 112.317 Penalties.--

29 (1) Violation of any provision of this part,  
30 including, but not limited to, any failure to file any  
31 disclosures required by this part or violation of any standard

1 of conduct imposed by this part, or violation of any provision  
2 of s. 8, Art. II of the State Constitution, in addition to any  
3 criminal penalty or other civil penalty involved, shall,  
4 pursuant to applicable constitutional and statutory  
5 procedures, constitute grounds for, and may be punished by,  
6 one or more of the following:

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

- 8 1. Impeachment.
- 9 2. Removal from office.
- 10 3. Suspension from office.
- 11 4. Public censure and reprimand.
- 12 5. Forfeiture of no more than one-third salary per  
13 month for no more than 12 months.

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

15 7. Restitution of any pecuniary benefits received  
16 because of the violation committed. The commission may  
17 recommend that the restitution penalty be paid to the agency  
18 of which the public officer was a member or to the General  
19 Revenue Fund.

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

- 23 1. Dismissal from employment.
- 24 2. Suspension from employment for not more than 90  
25 days without pay.

26 3. Demotion.

27 4. Reduction in salary level.

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

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

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1           7. Restitution of any pecuniary benefits received  
2 because of the violation committed. The commission may  
3 recommend that the restitution penalty be paid to the agency  
4 at which the public employee was employed or of which the  
5 officer was a member or to the General Revenue Fund.

6           8. Public censure and reprimand.

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

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

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

- 18           1. Public censure and reprimand.
- 19           2. A civil penalty not to exceed \$10,000.
- 20           3. Restitution of any pecuniary benefits received

21 because of the violation committed. The commission may  
22 recommend that the restitution penalty be paid to the agency  
23 of the public officer or employee or to the General Revenue  
24 Fund.

25           (2) In any case in which the commission finds a  
26 violation of this part or of s. 8, Art. II of the State  
27 Constitution and the proper disciplinary official or body  
28 under s. 112.324 imposes ~~recommends~~ a civil penalty or  
29 restitution penalty, the Attorney General shall bring a civil  
30 action to recover such penalty. No defense may be raised in  
31 the civil action to enforce the civil penalty or order of

1 restitution that could have been raised by judicial review of  
2 the administrative findings and recommendations of the  
3 commission by certiorari to the district court of appeal. The  
4 Attorney General may collect any costs, attorney's fees,  
5 expert witness fees, or other costs of collection incurred in  
6 bringing the action.

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

16 Section 8. Section 112.3185, Florida Statutes, is  
17 amended to read:

18 112.3185 Additional standards for state agency  
19 employees Contractual services.--

20 (1) For the purposes of this section:

21 (a) "Contractual services" shall be defined as set  
22 forth in chapter 287.

23 (b) "Agency" means any state officer, department,  
24 board, commission, or council of the executive or judicial  
25 branch of state government and includes the Public Service  
26 Commission.

27 (2) No agency employee who participates through  
28 decision, approval, disapproval, recommendation, preparation  
29 of any part of a purchase request, influencing the content of  
30 any specification or procurement standard, rendering of  
31 advice, investigation, or auditing or in any other advisory

1 capacity in the procurement of contractual services shall  
2 become or be, while an agency employee, the employee of a  
3 person contracting with the agency by whom the employee is  
4 employed.

5 (3) No agency employee shall, after retirement or  
6 termination, have or hold any employment or contractual  
7 relationship with any business entity other than an agency in  
8 connection with any contract in which the agency employee  
9 participated personally and substantially through decision,  
10 approval, disapproval, recommendation, rendering of advice, or  
11 investigation while an officer or employee.

12 (4) No agency employee shall, within 2 years after  
13 retirement or termination, have or hold any employment or  
14 contractual relationship with any business entity other than  
15 an agency in connection with any contract for contractual  
16 services which was within his or her responsibility while an  
17 employee. When the agency employee's position is eliminated  
18 and his or her duties are performed by the business entity,  
19 this subsection does not prohibit him or her from employment  
20 or contractual relationship with the business entity if the  
21 employee's participation in the contract was limited to  
22 recommendation, the rendering of advice, or investigation  
23 while an employee and if the agency head determines that the  
24 best interests of the state will be served thereby and  
25 provides prior written approval for the particular employee.

26 (5) The sum of money paid to a former agency employee  
27 during the first year after the cessation of his or her  
28 responsibilities, by the agency with whom he or she was  
29 employed, for contractual services provided to the agency,  
30 shall not exceed the annual salary received on the date of  
31 cessation of his or her responsibilities. The provisions of

1 this subsection may be waived by the agency head for a  
2 particular contract if the agency head determines that such  
3 waiver will result in significant time or cost savings for the  
4 state.

5 (6) An agency employee may not, after retirement or  
6 termination, represent or advise another person or entity,  
7 except the state, in any matter in which the employee  
8 participated personally in his or her official capacity  
9 through decision, approval, disapproval, recommendation,  
10 rendering of advice, investigation, or otherwise while an  
11 employee. The term "matter" includes any judicial or other  
12 proceeding, application, request for a ruling or other  
13 determination, contract, claim, controversy, investigation,  
14 charge, accusation, arrest, or other particular action  
15 involving a specific party or parties.

16 ~~(7)(6)~~ No agency employee acting in an official  
17 capacity shall directly or indirectly procure contractual  
18 services for his or her own agency from any business entity of  
19 which a relative is an officer, partner, director, or  
20 proprietor or in which such officer or employee or his or her  
21 spouse or child, or any combination of them, has a material  
22 interest.

23 ~~(8)(7)~~ A violation of any provision of this section is  
24 punishable in accordance with s. 112.317.

25 ~~(9)(8)~~ This section is not applicable to any employee  
26 of the Public Service Commission who was so employed on or  
27 before December 31, 1994.

28 Section 9. Paragraph (f) of subsection (5) of section  
29 112.3215, Florida Statutes, is amended to read:

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1           112.3215 Lobbyists before the executive branch or the  
2 Constitution Revision Commission; registration and reporting;  
3 investigation by commission.--

4           (5)

5           (f) The commission shall provide by rule the grounds  
6 for waiving the fine and the procedures ~~a procedure~~ by which a  
7 lobbyist who fails to timely file a report shall be notified  
8 and assessed fines and may appeal. The rule shall provide for  
9 the following:

10           1. Upon determining that the report is late, the  
11 person designated to review the timeliness of reports shall  
12 immediately notify the lobbyist as to the failure to timely  
13 file the report and that a fine is being assessed for each  
14 late day. The fine shall be \$50 per day per report for each  
15 late day up to a maximum of \$5,000 per late report.

16           2. Upon receipt of the report, the person designated  
17 to review the timeliness of reports shall determine the amount  
18 of the fine due based upon the earliest of the following:

19           a. When a report is actually received by the lobbyist  
20 registration and reporting office.

21           b. When the report is postmarked.

22           c. When the certificate of mailing is dated.

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

25           3. Such fine shall be paid within 30 days after the  
26 notice of payment due is transmitted by the Lobbyist  
27 Registration Office, unless appeal is made to the commission.  
28 The moneys shall be deposited into the Executive Branch Lobby  
29 Registration Trust Fund.

30           4. A fine shall not be assessed against a lobbyist the  
31 first time any reports for which the lobbyist is responsible



1 are not timely filed. However, to receive the one-time fine  
2 waiver, all reports for which the lobbyist is responsible must  
3 be filed within 30 days after the notice that any reports have  
4 not been timely filed is transmitted by the Lobbyist  
5 Registration Office. A fine shall be assessed for any  
6 subsequent late-filed reports.

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

18           6. The person designated to review the timeliness of  
19 reports shall notify the commission of the failure of a  
20 lobbyist to file a report after notice or of the failure of a  
21 lobbyist to pay the fine imposed.

22           7. Notwithstanding any provision of chapter 120, any  
23 fine imposed under this subsection that is not waived by final  
24 order of the commission and that remains unpaid more than 60  
25 days after the notice of payment due or more than 60 days  
26 after the commission renders a final order on the lobbyist's  
27 appeal shall be collected by the Department of Banking and  
28 Finance as a claim, debt, or other obligation owed to the  
29 state, and the department may assign the collection of such  
30 fine to a collection agent as provided in s. 17.20.

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1           Section 10. Subsection (4) of section 112.322, Florida  
2 Statutes, is amended to read:

3           112.322 Duties and powers of commission.--

4           (4) The commission has the power to subpoena, audit,  
5 and investigate. The commission may subpoena witnesses and  
6 compel their attendance and testimony, administer oaths and  
7 affirmations, take evidence, and require by subpoena the  
8 production of any books, papers, records, or other items  
9 relevant to the performance of the duties of the commission or  
10 to the exercise of its powers. The commission may delegate to  
11 its investigators the authority to administer oaths and  
12 affirmations. The commission may delegate the authority to  
13 issue subpoenas to its chair, and may authorize its employees  
14 to serve any subpoena issued under this section. In the case  
15 of a refusal to obey a subpoena issued to any person, the  
16 commission may make application to any circuit court of this  
17 state which shall have jurisdiction to order the witness to  
18 appear before the commission and to produce evidence, if so  
19 ordered, or to give testimony touching on the matter in  
20 question. Failure to obey the order may be punished by the  
21 court as contempt. Witnesses shall be paid mileage and  
22 witnesses fees as authorized for witnesses in civil cases,  
23 except that a witness who is required to travel outside the  
24 county of his or her residence to testify is entitled to  
25 reimbursement for per diem and travel expenses at the same  
26 rate provided for state employees under s. 112.061, to be paid  
27 after the witness appears.

28           Section 11. Subsections (3) and (4) of section 914.21,  
29 Florida Statutes, are amended to read:

30           914.21 Definitions.--As used in ss. 914.22-914.24, the  
31 term:

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 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 Commission on Ethics.

12          Section 12. This act shall take effect July 1, 2003,  
13 except that this section and section 3 of this act shall take  
14 effect upon becoming a law.

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SENATE SUMMARY

Prohibits a current or former public officer or employee from disclosing or using certain information for personal benefit or gain. Provides that an agency employee whose position was transferred from the Career Service System to the Selected Exempt Service is exempt from the prohibition against members of the Legislature or statewide elected officers representing another person or entity for compensation before a government body or agency of which the individual was an officer or member for 2 years following vacation of office. Requires that the amount reported on the statement of financial interests regarding assets valued in excess of a certain amount which a person holds jointly with another be based on the reporting individual's legal percentage of ownership of the property, except for assets held jointly with right of survivorship. Requires that the amount reported on the statement of financial interests regarding liabilities valued in excess of a certain amount in which a person is jointly and severally liable be based on the reporting individual's percentage of liability, except as to debt secured by property owned by the reporting individual which is held jointly with right of survivorship. Increases the fine for the late filing of a statement of financial interests. Changes the due date for the supervisor of elections of each county to certify to the commission a list of names and addresses of all persons who have failed to timely file the required statements of financial interests. Provides a due date for the filing of reports or statements with the Commission on Ethics by those reporting individuals who left office or employment during the calendar year. Repeals s. 112.317(6), F.S., which provides that a person who files a complaint with the commission, or files any document, action, or proceeding in connection with a confidential preliminary investigation of the commission, before such complaint, document, action, or proceeding becomes a public record commits a first-degree misdemeanor. Provides that the restitution penalty for violation of the code of ethics may be paid to the public officer's or employee's agency or to the General Revenue Fund. Authorizes the Attorney General to collect costs and fees for bringing an action for a violation of the code of ethics for public officers and employees. Provides an exception regarding the prohibition against a retired or terminated employee having an employment or contractual relationship with a business entity that the employee participated personally and substantially while an officer or employee or in connection with contractual services that were within the employee's responsibility while an employee. Provides for rules prescribing the grounds for waiving a fine and procedures by which a lobbyist may appeal. Provides that a witness who is required to travel outside the county of his or her residence to testify is entitled to per diem and travel expenses. Expands the definition of the term "official investigation" to include any investigation conducted by the Commission on Ethics. Expands the definition of the term "official proceeding" by including a proceeding

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