

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Gelber offered the following:

**Amendment (with title amendment)**

Remove line(s) 45-301, and insert:

Section 2. Section 838.014, Florida Statutes, is amended to read:

838.014 Definitions.--As used in ~~For the purposes of this chapter, the term unless a different meaning plainly is required:~~

(1) "Benefit" means gain or advantage, or anything regarded by the person to be benefited as a gain or advantage, including the doing of an act beneficial to any person in whose welfare he or she is interested, including any commission, gift, gratuity, property, commercial interest, or any other thing of economic value not authorized by law.

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26 (2) "Bid" includes a response to an "invitation to bid,"  
27 "invitation to negotiate," "request for a quote," or "request  
28 for proposals" as those terms are defined in s. 287.012.

29 (3) "Commodity" means any goods, merchandise, wares,  
30 produce, chose in action, land, article of commerce, or other  
31 tangible or intangible property, real, personal, or mixed, for  
32 use, consumption, production, enjoyment, or resale.

33 (4) "Corruptly" or "with corrupt intent" means acting  
34 knowingly and dishonestly for a wrongful purpose.

35 (5) "Harm" means pecuniary or other loss, disadvantage, or  
36 injury to the person affected.

37 (6) "Public servant" means:

38 (a) Any officer or employee of a state, county, municipal,  
39 or special district agency or entity;

40 (b) Any legislative or judicial officer or employee;

41 (c) Any person, except a witness, who acts as a master,  
42 receiver, auditor, arbitrator, umpire, referee, consultant, or  
43 hearing officer while performing a governmental function; or

44 (d) A candidate for election or appointment to any of the  
45 positions listed in this subsection, or an individual who has  
46 been elected to, but has yet to officially assume the  
47 responsibilities of, public office.

48 (7) "Service" means any kind of activity performed in  
49 whole or in part for economic benefit.

50 ~~(2) "Pecuniary benefit" is benefit in the form of any~~  
51 ~~commission, gift, gratuity, property, commercial interest, or~~  
52 ~~any other thing of economic value.~~

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53 ~~(3) "Harm" means loss, disadvantage, or injury to the~~  
54 ~~person affected, including loss, disadvantage, or injury to any~~  
55 ~~other person in whose welfare he or she is interested.~~

56 ~~(4) "Public servant" means any public officer, agent, or~~  
57 ~~employee of government, whether elected or appointed, including,~~  
58 ~~but not limited to, any executive, legislative, or judicial~~  
59 ~~officer; any person who holds an office or position in a~~  
60 ~~political party or political party committee, whether elected or~~  
61 ~~appointed; and any person participating as a special master,~~  
62 ~~receiver, auditor, juror, arbitrator, umpire, referee,~~  
63 ~~consultant, administrative law judge, hearing officer, or~~  
64 ~~hearing examiner, or person acting on behalf of any of these, in~~  
65 ~~performing a governmental function; but the term does not~~  
66 ~~include witnesses. Such term shall include a candidate for~~  
67 ~~election or appointment to any such office, including any~~  
68 ~~individual who seeks or intends to occupy any such office. It~~  
69 ~~shall include any person appointed to any of the foregoing~~  
70 ~~offices or employments before and after he or she qualifies.~~

71 ~~(5) "Government" includes the state government and any~~  
72 ~~city or county government or any branch, political subdivision,~~  
73 ~~or agency of the state, county, or city government.~~

74 ~~(6) "Corruptly" means done with a wrongful intent and for~~  
75 ~~the purpose of obtaining or compensating or receiving~~  
76 ~~compensation for any benefit resulting from some act or omission~~  
77 ~~of a public servant which is inconsistent with the proper~~  
78 ~~performance of his or her public duties.~~

79 Section 3. Subsections (1) and (3) of section 838.015,  
80 Florida Statutes, are amended to read:

81 838.015 Bribery.--

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82 (1) "Bribery" means corruptly to give, offer, or promise  
83 to any public servant, or, if a public servant, corruptly to  
84 request, solicit, accept, or agree to accept for himself or  
85 herself or another, any pecuniary or other benefit not  
86 authorized by law with an intent or purpose to influence the  
87 performance of any act or omission which the person believes to  
88 be, or the public servant represents as being, within the  
89 official discretion of a public servant, in violation of a  
90 public duty, or in performance of a public duty.

91 (3) Any person who commits bribery commits ~~is guilty of~~ a  
92 felony of the second ~~third~~ degree, punishable as provided in s.  
93 775.082, s. 775.083, or s. 775.084.

94 Section 4. Subsection (4) of section 838.016, Florida  
95 Statutes, is amended to read:

96 838.016 Unlawful compensation or reward for official  
97 behavior.--

98 (4) Whoever violates the provisions of this section  
99 commits ~~shall be guilty of~~ a felony of the second ~~third~~ degree,  
100 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

101 Section 5. Sections 838.022, 838.20, 838.21, 838.22, and  
102 838.23, Florida Statutes, are created to read:

103 838.022 Official misconduct.--

104 (1) It is unlawful for a public servant, with corrupt  
105 intent to obtain a benefit for any person or to cause harm to  
106 another, to:

107 (a) Falsify, or cause another person to falsify, any  
108 official record or official document;

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109 (b) Conceal, cover up, destroy, mutilate, or alter any  
110 official record or official document or cause another person to  
111 perform such an act; or

112 (c) Obstruct, delay, or prevent the communication of  
113 information relating to the commission of a felony that directly  
114 involves or affects the public agency or public entity served by  
115 the public servant.

116 (2) For the purposes of this section:

117 (a) The term "public servant" does not include a candidate  
118 who does not otherwise qualify as a public servant.

119 (b) An official record or official document includes only  
120 public records.

121 (3) Any person who violates this section commits a felony  
122 of the second degree, punishable as provided in s. 775.082, s.  
123 775.083, or s. 775.084.

124 838.20 Criminal misuse of official position.--

125 (1) It is unlawful for any public officer or public  
126 employee to corruptly use or attempt to use his or her official  
127 position, or any public property or public resource that is  
128 within his or her trust, to establish any business relationship  
129 between the public officer's or public employee's own agency and  
130 any business entity in which the public officer or public  
131 employee receives or has an expectation of receiving a benefit.

132 (2) Any person who violates this section commits a felony  
133 of the second degree, punishable as provided in s. 775.082, s.  
134 775.083, or s. 775.084.

135 838.21 Disclosure or use of confidential criminal justice  
136 information.--It is unlawful for a public servant, with intent  
137 to obstruct, impede, or prevent a criminal investigation or a

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138 criminal prosecution, to disclose active criminal investigative  
139 or intelligence information as defined in chapter 119 or to  
140 disclose or use information regarding either the efforts to  
141 secure or the issuance of a warrant, subpoena, or other court  
142 process or court order relating to a criminal investigation or  
143 criminal prosecution when such information is not available to  
144 the general public and is gained by reason of the public  
145 servant's official position. Any person who violates this  
146 section commits a felony of the third degree, punishable as  
147 provided in s. 775.082, s. 775.083, or s. 775.084.

148 838.22 Bid tampering.--

149 (1) It is unlawful for a public servant, with corrupt  
150 intent to influence or attempt to influence the competitive  
151 bidding process undertaken by any state, county, municipal, or  
152 special district agency, or any other public entity, for the  
153 procurement of commodities or services, to:

154 (a) Disclose material information concerning a bid or  
155 other aspects of the competitive bidding process when such  
156 information is not publicly disclosed.

157 (b) Alter or amend a submitted bid, documents or other  
158 materials supporting a submitted bid, or bid results for the  
159 purpose of intentionally providing a competitive advantage to  
160 any person who submits a bid.

161 (2) It is unlawful for a public servant, with corrupt  
162 intent to obtain a benefit for any person or to cause unlawful  
163 harm to another, to circumvent a competitive bidding process  
164 required by law or rule by using a sole-source contract for  
165 commodities or services.

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166       (3) It is unlawful for any person to knowingly agree,  
167 conspire, combine, or confederate, directly or indirectly, with  
168 a public servant to violate subsection (1) or subsection (2).

169       (4) It is unlawful for any person to knowingly enter into  
170 a contract for commodities or services which was secured by a  
171 public servant acting in violation of subsection (1) or  
172 subsection (2).

173       (5) Any person who violates this section commits a felony  
174 of the second degree, punishable as provided in s. 775.082, s.  
175 775.083, or s. 775.084.

176       838.23 Status of confidential informants and confidential  
177 sources.--A person who provides information regarding suspected  
178 criminal violations committed by a public servant as defined in  
179 s. 838.014 shall be considered a confidential informant or  
180 confidential source pursuant to s. 119.07(3)(c).

181       Section 6. Section 837.02, Florida Statutes, is amended to  
182 read:

183       837.02 Perjury in official proceedings.--

184       (1) Except as provided in subsections ~~subsection~~ (2) and  
185 (3), whoever makes a false statement, which he or she does not  
186 believe to be true, under oath in an official proceeding in  
187 regard to any material matter, commits a felony of the third  
188 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
189 775.084.

190       (2) Whoever makes a false statement, which he or she does  
191 not believe to be true, under oath in an official proceeding  
192 that relates to the prosecution of a capital felony, commits a  
193 felony of the second degree, punishable as provided in s.  
194 775.082, s. 775.083, or s. 775.084.

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195       (3) Any public servant, as defined in s. 838.014, who  
 196 gives false testimony, which he or she does not believe to be  
 197 true, under oath in an official proceeding in regard to any  
 198 material matter that relates to his or her duties or actions as  
 199 a public servant commits a felony of the second degree,  
 200 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

201       ~~(4)(3)~~ Knowledge of the materiality of the statement is  
 202 not an element of the crime of perjury under subsection (1), ~~or~~  
 203 subsection (2), or subsection (3) and the defendant's mistaken  
 204 belief that the statement was not material is not a defense.

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

207       Remove line(s) 12-30, and insert:  
 208 government; providing a popular name; amending s. 838.014, F.S.;  
 209 revising, providing, and deleting definitions; amending s.  
 210 838.015, F.S.; revising the definition of "bribery" and  
 211 increasing the penalty therefor; amending s. 838.016, F.S.;  
 212 increasing the penalty for unlawful compensation for official  
 213 behavior; creating ss. 838.022, 838.20, 838.21, 838.22, and  
 214 838.23, F.S.; providing criminal penalties for official  
 215 misconduct, criminal misuse of official position, disclosure or  
 216 use of confidential criminal justice information, and bid  
 217 tampering; providing definitions; providing status of  
 218 confidential informants and confidential sources; amending s.  
 219 837.02, F.S.; providing a criminal penalty for perjury in an  
 220 official proceeding by a public servant; amending s. 921.0022,  
 221 F.S.;