

Bill No. HB 1377, 2nd Eng.

Barcode 305140

CHAMBER ACTION

Senate

House

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11 Senator Posey moved the following amendment:

12

13 **Senate Amendment (with title amendment)**

14 Delete everything after the enacting clause

15

16 and insert:

17 Section 1. Present subsections (2) and (3) of section
18 104.31, Florida Statutes, are redesign subsections (3)
19 and (4), respectively, and a new subsection (2) is added to
20 that section, to read:

21 104.31 Political activities of state, county, and
22 municipal officers and employees.--

23 (2) An employee of the state or any political
24 subdivision may not participate in any political campaign for
25 an elective office while on duty or within any period of time
26 during which the employee is expected to perform services for
27 which he or she receives compensation from the state or a
28 political subdivision.

29 Section 2. Subsection (8), paragraph (a) of subsection
30 (9), paragraph (b) of subsection (12), and subsection (14) of
31 section 112.313, Florida Statutes, are amended to read:

Bill No. HB 1377, 2nd Eng.

Barcode 305140

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

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

13 (a)1. It is the intent of the Legislature to implement
 14 by statute the provisions of s. 8(e), Art. II of the State
 15 Constitution relating to legislators, statewide elected
 16 officers, appointed state officers, and designated public
 17 employees.

18 2. As used in this paragraph:

19 a. "Employee" means:

20 (I) Any person employed in the executive or
 21 legislative branch of government holding a position in the
 22 Senior Management Service as defined in s. 110.402 or any
 23 person holding a position in the Selected Exempt Service as
 24 defined in s. 110.602 or any person having authority over
 25 policy or procurement employed by the Department of the
 26 Lottery.

27 (II) The Auditor General, the director of the Office
 28 of Program Policy Analysis and Government Accountability, the
 29 Sergeant at Arms and Secretary of the Senate, and the Sergeant
 30 at Arms and Clerk of the House of Representatives.

31 (III) The executive director of the Legislative

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 Committee on Intergovernmental Relations and the executive
2 director and deputy executive director of the Commission on
3 Ethics.

4 (IV) An executive director, staff director, or deputy
5 staff director of each joint committee, standing committee, or
6 select committee of the Legislature; an executive director,
7 staff director, executive assistant, analyst, or attorney of
8 the Office of the President of the Senate, the Office of the
9 Speaker of the House of Representatives, the Senate Majority
10 Party Office, Senate Minority Party Office, House Majority
11 Party Office, or House Minority Party Office; or any person,
12 hired on a contractual basis, having the power normally
13 conferred upon such persons, by whatever title.

14 (V) The Chancellor and Vice Chancellors of the State
15 University System; the general counsel to the Board of
16 Regents; and the president, vice presidents, and deans of each
17 state university.

18 (VI) Any person, including an other-personal-services
19 employee, having the power normally conferred upon the
20 positions referenced in this sub-subparagraph.

21 b. "Appointed state officer" means any member of an
22 appointive board, commission, committee, council, or authority
23 of the executive or legislative branch of state government
24 whose powers, jurisdiction, and authority are not solely
25 advisory and include the final determination or adjudication
26 of any personal or property rights, duties, or obligations,
27 other than those relative to its internal operations.

28 c. "State agency" means an entity of the legislative,
29 executive, or judicial branch of state government over which
30 the Legislature exercises plenary budgetary and statutory
31 control.

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 3. No member of the Legislature, appointed state
 2 officer, or statewide elected officer shall personally
 3 represent another person or entity for compensation before the
 4 government body or agency of which the individual was an
 5 officer or member for a period of 2 years following vacation
 6 of office. No member of the Legislature shall personally
 7 represent another person or entity for compensation during his
 8 or her term of office before any state agency other than
 9 judicial tribunals or in settlement negotiations after the
 10 filing of a lawsuit.

11 4. No agency employee shall personally represent
 12 another person or entity for compensation before the agency
 13 with which he or she was employed for a period of 2 years
 14 following vacation of position, unless employed by another
 15 agency of state government.

16 5. Any person violating this paragraph shall be
 17 subject to the penalties provided in s. 112.317 and a civil
 18 penalty of an amount equal to the compensation which the
 19 person receives for the prohibited conduct.

20 6. This paragraph is not applicable to:

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

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

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

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

Bill No. HB 1377, 2nd Eng.

Barcode 305140

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

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

7 (12) EXEMPTION.--The requirements of subsections (3)
8 and (7) as they pertain to persons serving on advisory boards
9 may be waived in a particular instance by the body which
10 appointed the person to the advisory board, upon a full
11 disclosure of the transaction or relationship to the
12 appointing body prior to the waiver and an affirmative vote in
13 favor of waiver by two-thirds vote of that body. In instances
14 in which appointment to the advisory board is made by an
15 individual, waiver may be effected, after public hearing, by a
16 determination by the appointing person and full disclosure of
17 the transaction or relationship by the appointee to the
18 appointing person. In addition, no person shall be held in
19 violation of subsection (3) or subsection (7) if:

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

22 1. The official or the official's spouse or child has
23 in no way participated in the determination of the bid
24 specifications or the determination of the lowest or best
25 bidder;

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

30 3. The official, prior to or at the time of the
31 submission of the bid, has filed a statement with the

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 Commission on Ethics ~~Department of State~~, if the official is a
 2 state officer or employee, or with the supervisor of elections
 3 of the county in which the agency has its principal office, if
 4 the official is an officer or employee of a political
 5 subdivision, disclosing the official's interest, or the
 6 interest of the official's spouse or child, and the nature of
 7 the intended business.

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

15 Section 3. Present subsections (4), (5), and (6) of
 16 section 112.3144, Florida Statutes, are redesignated as
 17 subsections (5), (6), and (7), respectively, and a new
 18 subsection (4) is added to that section, to read:

19 112.3144 Full and public disclosure of financial
 20 interests.--

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

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 (b)1. With respect to reporting liabilities valued in
2 excess of \$1,000 on forms prescribed under this section for
3 which the reporting individual is jointly and severally
4 liable, the amount reported shall be based on the reporting
5 individual's percentage of liability rather than the total
6 amount of the liability. However, liability for a debt that is
7 secured by property owned by the reporting individual but that
8 is held jointly, with right of survivorship, must be reported
9 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 subparagraph 1.

14 Section 4. Paragraph (c) of subsection (6) of section
15 112.3145, Florida Statutes, is amended to read:

16 112.3145 Disclosure of financial interests and clients
17 represented before agencies.--

18 (6) Forms for compliance with the disclosure
19 requirements of this section and a current list of persons
20 subject to disclosure shall be created by the commission and
21 provided to each supervisor of elections. The commission and
22 each supervisor of elections shall give notice of disclosure
23 deadlines and delinquencies and distribute forms in the
24 following manner:

25 (c) Not later than 30 days after July 1 of each year,
26 the commission and each supervisor of elections shall
27 determine which persons required to file a statement of
28 financial interests in their respective offices have failed to
29 do so and shall send delinquency notices by certified mail,
30 return receipt requested, to these ~~such~~ persons. Each notice
31 shall state that a grace period is in effect until September 1

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 of the current year; that no investigative or disciplinary
 2 action based upon the delinquency will be taken by the agency
 3 head or commission if the statement is filed by September 1 of
 4 the current year; that, if the statement is not filed by
 5 September 1 of the current year, a fine of \$25 for each day
 6 late will be imposed, up to a maximum penalty of \$1,500; for
 7 notices sent by a supervisor of elections, that he or she is
 8 required by law to notify the commission of the delinquency;
 9 and that, if upon the filing of a sworn complaint the
 10 commission finds that the person has failed to timely file the
 11 statement within 60 days after September 1 of the current
 12 year, such person will also be subject to the penalties
 13 provided in s. 112.317.

14 Section 5. 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.~~

Bill No. HB 1377, 2nd Eng.

Barcode 305140

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 6. Paragraph (d) of subsection (6) and
15 subsection (8) of section 112.3148, Florida Statutes, are
16 amended to read:

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

20 (6)

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

Bill No. HB 1377, 2nd Eng.

Barcode 305140

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

20 (8)(a) Each reporting individual or procurement
 21 employee shall file a statement with the Commission on Ethics
 22 not later than ~~on~~ the last day of each calendar quarter, for
 23 the previous calendar quarter, containing a list of gifts
 24 which he or she believes to be in excess of \$100 in value, if
 25 any, accepted by him or her, for which compensation was not
 26 provided by the donee to the donor within 90 days of receipt
 27 of the gift to reduce the value to \$100 or less, except the
 28 following:

- 29 1. Gifts from relatives.
- 30 2. Gifts prohibited by subsection (4) or s.
- 31 112.313(4).

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 3. Gifts otherwise required to be disclosed by this
2 section.

3 (b) The statement shall include:

4 1. A description of the gift, the monetary value of
5 the gift, the name and address of the person making the gift,
6 and the dates thereof. If any of these facts, other than the
7 gift description, are unknown or not applicable, the report
8 shall so state.

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

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

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

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

26 (f)~~(e)~~ If a reporting individual or procurement
27 employee has not received any gifts described in paragraph (a)
28 during a calendar quarter, he or she is not required to file a
29 statement under this subsection for that calendar quarter.

30 Section 7. Subsection (6) of section 112.3149, Florida
31 Statutes, is amended to read:

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 112.3149 Solicitation and disclosure of honoraria.--
2 (6) A reporting individual or procurement employee who
3 receives payment or provision of expenses related to any
4 honorarium event from a person who is prohibited by subsection
5 (4) from paying an honorarium to a reporting individual or
6 procurement employee shall publicly disclose on an annual
7 statement the name, address, and affiliation of the person
8 paying or providing the expenses; the amount of the honorarium
9 expenses; the date of the honorarium event; a description of
10 the expenses paid or provided on each day of the honorarium
11 event; and the total value of the expenses provided to the
12 reporting individual or procurement employee in connection
13 with the honorarium event. The annual statement of honorarium
14 expenses shall be filed by July 1 of each year for those such
15 expenses received during the previous calendar year. The
16 reporting individual or procurement employee shall attach to
17 the annual statement a copy of each statement received by him
18 or her in accordance with subsection (5) regarding honorarium
19 expenses paid or provided during the calendar year for which
20 the annual statement is filed. The Such attached statement
21 shall become a public record upon the filing of the annual
22 report. The annual statement of a reporting individual shall
23 be filed with the financial disclosure statement required by
24 either s. 8, Art. II of the State Constitution or s. 112.3145,
25 as applicable to the reporting individual. The annual
26 statement of a procurement employee shall be filed with the
27 Commission on Ethics. The statement filed by a reporting
28 individual or procurement employee who left office or
29 employment during the calendar year covered by the statement
30 shall be filed by July 1 of the year after leaving office or
31 employment at the same location as his or her final financial

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 disclosure statement or, in the case of a former procurement
2 employee, with the Commission on Ethics.

3 Section 8. Subsections (1), (2), (6), (7), and (8) of
4 section 112.317, Florida Statutes, is amended to read:

5 112.317 Penalties.--

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

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

- 16 1. Impeachment.
- 17 2. Removal from office.
- 18 3. Suspension from office.
- 19 4. Public censure and reprimand.
- 20 5. Forfeiture of no more than one-third salary per
21 month for no more than 12 months.

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

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

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

- 31 1. Dismissal from employment.

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 2. Suspension from employment for not more than 90
2 days without pay.

3 3. Demotion.

4 4. Reduction in salary level.

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

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

8 7. Restitution of any pecuniary benefits received
9 because of the violation committed. The commission may
10 recommend that the restitution penalty be paid to the agency
11 by which the public employee was employed, or of which the
12 officer was deemed to be an employee, or to the General
13 Revenue Fund.

14 8. Public censure and reprimand.

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

18 1. Disqualification from being on the ballot.

19 2. Public censure.

20 3. Reprimand.

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

22 (d) In the case of a former public officer or employee
23 who has violated a provision applicable to former officers or
24 employees or whose violation occurred before the ~~prior to such~~
25 officer's or employee's leaving public office or employment:

26 1. Public censure and reprimand.

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

28 3. Restitution of any pecuniary benefits received
29 because of the violation committed. The commission may
30 recommend that the restitution penalty be paid to the agency
31 of the public officer or employee or to the General Revenue

1 Fund.

2 (2) In any case in which the commission finds a
3 violation of this part or of s. 8, Art. II of the State
4 Constitution and the proper disciplinary official or body
5 under s. 112.324 imposes ~~recommends~~ a civil penalty or
6 restitution penalty, the Attorney General shall bring a civil
7 action to recover such penalty. No defense may be raised in
8 the civil action to enforce the civil penalty or order of
9 restitution that could have been raised by judicial review of
10 the administrative findings and recommendations of the
11 commission by certiorari to the district court of appeal. The
12 Attorney General shall collect any costs, attorney's fees,
13 expert witness fees, or other costs of collection incurred in
14 bringing the action.

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

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

30 (7)(8) In any case in which the commission determines
31 that a person has filed a complaint against a public officer

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 or employee with a malicious intent to injure the reputation
2 of such officer or employee by filing the complaint with
3 knowledge that the complaint contains one or more false
4 allegations or with reckless disregard for whether the
5 complaint contains false allegations of fact material to a
6 violation of this part, the complainant shall be liable for
7 costs plus reasonable attorney's fees incurred in the defense
8 of the person complained against, including the costs and
9 reasonable attorney's fees incurred in proving entitlement to
10 and the amount of costs and fees. If the complainant fails to
11 pay such costs and fees voluntarily within 30 days following
12 such finding by the commission, the commission shall forward
13 such information to the Department of Legal Affairs, which
14 shall bring a civil action in a court of competent
15 jurisdiction to recover the amount of such costs and fees
16 awarded by the commission.

17 Section 9. Section 112.3185, Florida Statutes, is
18 amended to read:

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

21 (1) For the purposes of this section:

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

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

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

Bill No. HB 1377, 2nd Eng.

Barcode 305140

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

6 (3) No agency employee shall, after retirement or
7 termination, have or hold any employment or contractual
8 relationship with any business entity other than an agency in
9 connection with any contract in which the agency employee
10 participated personally and substantially through decision,
11 approval, disapproval, recommendation, rendering of advice, or
12 investigation while an officer or employee. When the agency
13 employee's position is eliminated and his or her duties are
14 performed by the business entity, this subsection does not
15 prohibit him or her from employment or contractual
16 relationship with the business entity if the employee's
17 participation in the contract was limited to recommendation,
18 rendering of advice, or investigation and if the agency head
19 determines that the best interests of the state will be served
20 thereby and provides prior written approval for the particular
21 employee.

22 (4) No agency employee shall, within 2 years after
23 retirement or termination, have or hold any employment or
24 contractual relationship with any business entity other than
25 an agency in connection with any contract for contractual
26 services which was within his or her responsibility while an
27 employee. If the agency employee's position is eliminated and
28 his or her duties are performed by the business entity, the
29 provisions of this subsection may be waived by the agency head
30 through prior written approval for a particular employee if
31 the agency head determines that the best interests of the

Barcode 305140

1 state will be served thereby.

2 (5) The sum of money paid to a former agency employee
3 during the first year after the cessation of his or her
4 responsibilities, by the agency with whom he or she was
5 employed, for contractual services provided to the agency,
6 shall not exceed the annual salary received on the date of
7 cessation of his or her responsibilities. ~~The provisions of~~
8 This subsection may be waived by the agency head for a
9 particular contract if the agency head determines that such
10 waiver will result in significant time or cost savings for the
11 state.

12 (6) No agency employee shall, after retirement or
13 termination, represent or advise another person or entity,
14 except the state, in any matter in which the employee
15 participated personally in his or her official capacity
16 through decision, approval, disapproval, recommendation,
17 rendering of advice, investigation, or otherwise while an
18 employee. The term "matter" includes any judicial or other
19 proceeding, application, request for a ruling, or other
20 determination, contract, claim, controversy, investigation,
21 charge, accusation, arrest, or other particular action
22 involving a specific party or parties.

23 ~~(7)(6)~~ No agency employee acting in an official
24 capacity shall directly or indirectly procure contractual
25 services for his or her own agency from any business entity of
26 which a relative is an officer, partner, director, or
27 proprietor or in which the ~~such~~ officer or employee or his or
28 her spouse or child, or any combination of them, has a
29 material interest.

30 ~~(8)(7)~~ A violation of any provision of this section is
31 punishable in accordance with s. 112.317.

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 ~~(9)(8)~~ This section is not applicable to any employee
2 of the Public Service Commission who was so employed on or
3 before December 31, 1994.

4 Section 10. Subsection (1) of section 112.321, Florida
5 Statutes, is amended to read:

6 112.321 Membership, terms; travel expenses; staff.--

7 (1) The commission shall be composed of nine members.
8 Five of these members shall be appointed by the Governor, no
9 more than three of whom shall be from the same political
10 party, subject to confirmation by the Senate. One member
11 appointed by the Governor shall be a former city or county
12 official and may be a former member of a local planning or
13 zoning board which has only advisory duties. Two members
14 shall be appointed by the Speaker of the House of
15 Representatives, and two members shall be appointed by the
16 President of the Senate. Neither the Speaker of the House of
17 Representatives nor the President of the Senate shall appoint
18 more than one member from the same political party. Of the
19 nine members of the Commission, no more than five members
20 shall be from the same political party at any one time. No
21 member may hold any public employment. An individual who
22 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215
23 or pursuant to any local government charter or ordinance may
24 not serve as a member of the commission, except that this
25 prohibition does not apply to an individual who is a member of
26 the commission on July 1, 2005, until the expiration of his or
27 her current term. A member of the commission may not lobby any
28 state or local governmental entity as provided in s. 11.045 or
29 s. 112.3215 or as provided by any local government charter or
30 ordinance, except that this prohibition does not apply to an
31 individual who is a member of the commission on July 1, 2005,

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 until the expiration of his or her current term. All members
 2 shall serve 2-year terms. No member shall serve more than two
 3 full terms in succession. Any member of the commission may be
 4 removed for cause by majority vote of the Governor, the
 5 President of the Senate, the Speaker of the House of
 6 Representatives, and the Chief Justice of the Supreme Court.

7 Section 11. Paragraph (f) of subsection (5) of section
 8 112.3215, Florida Statutes, is amended to read:

9 112.3215 Lobbyists before the executive branch or the
 10 Constitution Revision Commission; registration and reporting;
 11 investigation by commission.--

12 (5)

13 (f) The commission shall provide by rule the grounds
 14 for waiving a fine and the procedures ~~a procedure~~ by which a
 15 lobbyist who fails to timely file a report shall be notified
 16 and assessed fines and the procedure for appealing the fines.

17 The rule shall provide for the following:

18 1. Upon determining that the report is late, the
 19 person designated to review the timeliness of reports shall
 20 immediately notify the lobbyist as to the failure to timely
 21 file the report and that a fine is being assessed for each
 22 late day. The fine shall be \$50 per day per report for each
 23 late day up to a maximum of \$5,000 per late report.

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

27 a. When a report is actually received by the lobbyist
 28 registration and reporting office.

29 b. When the report is postmarked.

30 c. When the certificate of mailing is dated.

31 d. When the receipt from an established courier

Barcode 305140

1 company is dated.

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

7 4. A fine shall not be assessed against a lobbyist the
8 first time any reports for which the lobbyist is responsible
9 are not timely filed. However, to receive the one-time fine
10 waiver, all reports for which the lobbyist is responsible must
11 be filed within 30 days after the notice that any reports have
12 not been timely filed is transmitted by the Lobbyist
13 Registration Office. A fine shall be assessed for any
14 subsequent late-filed reports.

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

26 6. The person designated to review the timeliness of
27 reports shall notify the commission of the failure of a
28 lobbyist to file a report after notice or of the failure of a
29 lobbyist to pay the fine imposed. The registration of a
30 lobbyist who fails to timely pay a fine is automatically
31 suspended until the fine is paid, unless an appeal of the fine

Barcode 305140

1 is pending before the commission. The commission shall provide
2 a written suspension notice to each lobbyist whose
3 registration has been automatically suspended.

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

13 Section 12. Subsection (4) of section 112.322, Florida
14 Statutes, is amended to read:

15 112.322 Duties and powers of commission.--

16 (4) The commission has the power to subpoena, audit,
17 and investigate. The commission may subpoena witnesses and
18 compel their attendance and testimony, administer oaths and
19 affirmations, take evidence, and require by subpoena the
20 production of any books, papers, records, or other items
21 relevant to the performance of the duties of the commission or
22 to the exercise of its powers. The commission may delegate to
23 its investigators the authority to administer oaths and
24 affirmations. The commission may delegate the authority to
25 issue subpoenas to its chair, and may authorize its employees
26 to serve any subpoena issued under this section. In the case
27 of a refusal to obey a subpoena issued to any person, the
28 commission may make application to any circuit court of this
29 state which shall have jurisdiction to order the witness to
30 appear before the commission and to produce evidence, if so
31 ordered, or to give testimony touching on the matter in

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 question. Failure to obey the order may be punished by the
 2 court as contempt. Witnesses shall be paid mileage and
 3 witnesses fees as authorized for witnesses in civil cases,
 4 except that a witness who is required to travel outside the
 5 county of his or her residence to testify is entitled to per
 6 diem and travel expenses at the same rate provided for state
 7 employees under s. 112.061, to be paid after the witness
 8 appears.

9 Section 13. Subsections (3) and (4) of section 914.21,
 10 Florida Statutes, are amended to read:

11 914.21 Definitions.--As used in ss. 914.22-914.24, the
 12 term:

13 (3) "Official investigation" means any investigation
 14 instituted by a law enforcement agency or prosecuting officer
 15 of the state or a political subdivision of the state or the
 16 Commission on Ethics.

17 (4) "Official proceeding" means:

18 (a) A proceeding before a judge or court or a grand
 19 jury;

20 (b) A proceeding before the Legislature; or

21 (c) A proceeding before a federal agency which is
 22 authorized by law.

23 (d) A proceeding before the Commission on Ethics.

24 Section 14. This act shall take effect October 1,
 25 2005.

26

27

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

29 And the title is amended as follows:

30 Delete everything before the enacting clause

31

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 and insert:

2 A bill to be entitled
 3 An act relating to ethics for public officers
 4 and employees; amending s. 104.31, F.S.;
 5 prohibiting employees of the state and its
 6 political subdivisions from participating in a
 7 political campaign during certain time periods;
 8 amending s. 112.313, F.S.; prohibiting certain
 9 disclosures by a former public officer, agency
 10 employee, or local government attorney;
 11 redefining the term "employee" to include
 12 certain other-personal-services employees for
 13 certain postemployment activities; providing an
 14 exemption from provisions prohibiting conflicts
 15 in employment to a person who, after serving on
 16 an advisory board, files a statement with the
 17 Commission on Ethics relating to a bid or
 18 submission; amending s. 112.3144, F.S.;
 19 specifying how assets valued in excess of
 20 \$1,000 are to be reported by a reporting
 21 individual; amending s. 112.3145, F.S.;
 22 requiring that a delinquency notice be sent to
 23 certain officeholders by certified mail, return
 24 receipt requested; revising certain filing
 25 deadlines; amending s. 112.3147, F.S.; deleting
 26 certain provisions relating to reporting the
 27 value of assets; amending s. 112.3148, F.S.;
 28 providing requirements for persons who have
 29 left office or employment as to filing a report
 30 relating to gifts; amending s. 112.3149, F.S.;
 31 requiring that a report of honoraria by a

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 person who left office or employment be filed
2 by a specified date; amending s. 112.317, F.S.;
3 authorizing the commission to recommend a
4 restitution penalty be paid to the agency or
5 the General Revenue Fund; authorizing the
6 Attorney General to recover costs for filing
7 suit to collect penalties and fines; deleting
8 provisions imposing a penalty for the
9 disclosure of information concerning a
10 complaint or an investigation; amending
11 112.3185, F.S.; providing additional standards
12 for state agency employees relating to
13 procurement of goods and services by a state
14 agency; authorizing an employee whose position
15 was eliminated to engage in certain contractual
16 activities; prohibiting former employees from
17 certain specified activities; amending s.
18 112.321, F.S.; prohibiting an individual who
19 qualifies as a lobbyist from serving on the
20 commission; prohibiting a member of the
21 commission from lobbying any state or local
22 governmental entity; providing exceptions for
23 individuals who are members of the commission
24 on the effective date of the act until the
25 expiration of their current terms; amending s.
26 112.3215, F.S.; requiring the commission to
27 adopt a rule detailing the grounds for waiving
28 a fine and the procedures when a lobbyist fails
29 to timely file his or her report; requiring
30 automatic suspension of a lobbyist's
31 registration if the fine is not timely paid;

Bill No. HB 1377, 2nd Eng.

Barcode 305140

1 requiring the commission to provide written
2 notice to any lobbyist whose registration is
3 automatically suspended; amending s. 112.322,
4 F.S.; authorizing travel and per diem expenses
5 for certain witnesses; amending s. 914.21,
6 F.S.; redefining the terms "official
7 investigation" and "official proceeding," for
8 purposes of provisions relating to tampering
9 with witnesses, to include an investigation by
10 the Commission on Ethics; providing an
11 effective date.

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