

CHAMBER ACTION

1 The Governmental Operations Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to ethics; amending s. 104.31, F.S.;

7 prohibiting state or political subdivision employees from

8 participating in political campaigns during on-duty hours

9 or certain other hours; amending s. 112.313, F.S.;

10 applying the prohibition on disclosure or use of certain

11 information to former public officers, public employees,

12 and local government attorneys; providing an exception to

13 such prohibition; revising postemployment restrictions to

14 apply to other-personal-services temporary employees;

15 exempting certain agency employees from postemployment

16 restrictions; providing for certain disclosure statements

17 to be filed with the Commission on Ethics instead of the

18 Department of State; revising a prohibition on lobbying by

19 former local officers to preclude representation before

20 the government body or agency an officer has served;

21 providing applicability; amending s. 112.3144, F.S.;

22 providing for reporting of assets held by joint tenancy,

23 joint tenancy with right of survivorship, and partnership

HB 1377

2005
CS

24 | and reporting of certain liabilities; amending s.
25 | 112.3145, F.S.; requiring the commission to send
26 | delinquency notices with return receipt requested;
27 | reducing the maximum penalty for late-filed statements of
28 | financial interests; revising the deadline after the grace
29 | period for late-filed statements of financial interests
30 | after which a person will become subject to additional
31 | penalties; revising the deadline for which county
32 | supervisors of elections shall submit to the commission a
33 | list of persons who failed to timely file statements of
34 | financial interests; authorizing the commission to waive
35 | late-filed penalties only upon grounds of inadequate
36 | notice; amending s. 112.3147, F.S.; deleting a redundant
37 | provision; amending s. 112.3148, F.S.; requiring gift
38 | disclosure forms of individuals who left office or
39 | employment during the calendar year to be filed by a date
40 | certain; allowing quarterly gift disclosure forms to be
41 | considered timely filed if postmarked on or before the due
42 | date; amending s. 112.3149, F.S.; requiring gift
43 | disclosure statements of individuals who left office or
44 | employment during the calendar year to be filed by a date
45 | certain; amending s. 112.317, F.S.; authorizing the
46 | commission to recommend restitution be paid to the agency
47 | damaged by the violation or the General Revenue Fund;
48 | authorizing the Attorney General to collect certain costs
49 | and fees incurred in bringing certain actions; deleting a
50 | provision rendering a breach of confidentiality of an
51 | ethics proceeding a misdemeanor; amending s. 112.3185,

Page 2 of 30

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1377-01-c1

HB 1377

2005
CS

52 F.S.; providing for certain former agency employees to be
 53 employed by or have a contractual relationship with
 54 certain business entities; prohibiting a former agency
 55 employee from representing a client before the employee's
 56 former agency in certain matters; amending s. 112.3215,
 57 F.S.; revising the commission's rulemaking authority
 58 regarding appeals of certain fines; providing for
 59 automatic suspended registration for lobbyists who fail to
 60 timely pay a certain fine; providing an exception;
 61 amending s. 112.322, F.S.; revising provisions relating to
 62 payment of witnesses; amending s. 914.21, F.S.; revising
 63 definitions; providing an effective date.

64
 65 Be It Enacted by the Legislature of the State of Florida:

66
 67 Section 1. Subsections (2) and (3) of section 104.31,
 68 Florida Statutes, are renumbered as subsections (3) and (4),
 69 respectively, and a new subsection (2) is added to said section,
 70 to read:

71 104.31 Political activities of state, county, and
 72 municipal officers and employees.--

73 (2) An employee of the state or any political subdivision
 74 may not participate in any political campaign for an elective
 75 office while on duty or within any period of time during which
 76 the employee is expected to perform services for which he or she
 77 receives compensation from the state or political subdivision.

78 Section 2. Subsections (8), (9), (12), and (14) of section
 79 112.313, Florida Statutes, are amended to read:

HB 1377

2005
CS

80 112.313 Standards of conduct for public officers,
81 employees of agencies, and local government attorneys.--

82 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current
83 or former public officer, employee of an agency, or local
84 government attorney shall disclose or use information not
85 available to members of the general public and gained by reason
86 of his or her official position, except for information relating
87 exclusively to governmental practices, for his or her personal
88 gain or benefit or for the personal gain or benefit of any other
89 person or business entity.

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

92 (a)1. It is the intent of the Legislature to implement by
93 statute the provisions of s. 8(e), Art. II of the State
94 Constitution relating to legislators, statewide elected
95 officers, appointed state officers, and designated public
96 employees.

97 2. As used in this paragraph:

98 a. "Employee" means:

99 (I) Any person employed in the executive or legislative
100 branch of government holding a position in the Senior Management
101 Service as defined in s. 110.402 or any person holding a
102 position in the Selected Exempt Service as defined in s. 110.602
103 or any person having authority over policy or procurement
104 employed by the Department of the Lottery.

105 (II) The Auditor General, the director of the Office of
106 Program Policy Analysis and Government Accountability, the

HB 1377

2005
CS

107 Sergeant at Arms and Secretary of the Senate, and the Sergeant
108 at Arms and Clerk of the House of Representatives.

109 (III) The executive director of the Legislative Committee
110 on Intergovernmental Relations and the executive director and
111 deputy executive director of the Commission on Ethics.

112 (IV) An executive director, staff director, or deputy
113 staff director of each joint committee, standing committee, or
114 select committee of the Legislature; an executive director,
115 staff director, executive assistant, analyst, or attorney of the
116 Office of the President of the Senate, the Office of the Speaker
117 of the House of Representatives, the Senate Majority Party
118 Office, Senate Minority Party Office, House Majority Party
119 Office, or House Minority Party Office; or any person, hired on
120 a contractual basis, having the power normally conferred upon
121 such persons, by whatever title.

122 (V) The Chancellor and Vice Chancellors of the State
123 University System; the general counsel to the Board of Regents;
124 and the president, vice presidents, and deans of each state
125 university.

126 (VI) Any person, including an other-personal-services
127 temporary employee, having the power normally conferred upon the
128 positions referenced in this sub-subparagraph.

129 b. "Appointed state officer" means any member of an
130 appointive board, commission, committee, council, or authority
131 of the executive or legislative branch of state government whose
132 powers, jurisdiction, and authority are not solely advisory and
133 include the final determination or adjudication of any personal

HB 1377

2005
CS

134 or property rights, duties, or obligations, other than those
135 relative to its internal operations.

136 c. "State agency" means an entity of the legislative,
137 executive, or judicial branch of state government over which the
138 Legislature exercises plenary budgetary and statutory control.

139 3. No member of the Legislature, appointed state officer,
140 or statewide elected officer shall personally represent another
141 person or entity for compensation before the government body or
142 agency of which the individual was an officer or member for a
143 period of 2 years following vacation of office. No member of the
144 Legislature shall personally represent another person or entity
145 for compensation during his or her term of office before any
146 state agency other than judicial tribunals or in settlement
147 negotiations after the filing of a lawsuit.

148 4. No agency employee shall personally represent another
149 person or entity for compensation before the agency with which
150 he or she was employed for a period of 2 years following
151 vacation of position, unless employed by another agency of state
152 government.

153 5. Any person violating this paragraph shall be subject to
154 the penalties provided in s. 112.317 and a civil penalty of an
155 amount equal to the compensation which the person receives for
156 the prohibited conduct.

157 6. This paragraph is not applicable to:

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

HB 1377

2005
CS

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

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

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

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

172 f. An agency employee whose position was transferred from
173 the Career Service System to the Selected Exempt Service
174 pursuant to chapter 2001-43, Laws of Florida.

175 (b) In addition to the provisions of this part which are
176 applicable to legislators and legislative employees by virtue of
177 their being public officers or employees, the conduct of members
178 of the Legislature and legislative employees shall be governed
179 by the ethical standards provided in the respective rules of the
180 Senate or House of Representatives which are not in conflict
181 herewith.

182 (12) EXEMPTION.--The requirements of subsections (3) and
183 (7) as they pertain to persons serving on advisory boards may be
184 waived in a particular instance by the body which appointed the
185 person to the advisory board, upon a full disclosure of the
186 transaction or relationship to the appointing body prior to the
187 waiver and an affirmative vote in favor of waiver by two-thirds

HB 1377

2005
CS

188 | vote of that body. In instances in which appointment to the
 189 | advisory board is made by an individual, waiver may be effected,
 190 | after public hearing, by a determination by the appointing
 191 | person and full disclosure of the transaction or relationship by
 192 | the appointee to the appointing person. In addition, no person
 193 | shall be held in violation of subsection (3) or subsection (7)
 194 | if:

195 | (a) Within a city or county the business is transacted
 196 | under a rotation system whereby the business transactions are
 197 | rotated among all qualified suppliers of the goods or services
 198 | within the city or county.

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

201 | 1. The official or the official's spouse or child has in
 202 | no way participated in the determination of the bid
 203 | specifications or the determination of the lowest or best
 204 | bidder;

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

209 | 3. The official, prior to or at the time of the submission
 210 | of the bid, has filed a statement with the Commission on Ethics
 211 | ~~Department of State~~, if the official is a state officer or
 212 | employee, or with the supervisor of elections of the county in
 213 | which the agency has its principal office, if the official is an
 214 | officer or employee of a political subdivision, disclosing the

HB 1377

2005
CS

215 official's interest, or the interest of the official's spouse or
216 child, and the nature of the intended business.

217 (c) The purchase or sale is for legal advertising in a
218 newspaper, for any utilities service, or for passage on a common
219 carrier.

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

225 (e) The business entity involved is the only source of
226 supply within the political subdivision of the officer or
227 employee and there is full disclosure by the officer or employee
228 of his or her interest in the business entity to the governing
229 body of the political subdivision prior to the purchase, rental,
230 sale, leasing, or other business being transacted.

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

234 (g) The fact that a county or municipal officer or member
235 of a public board or body, including a district school officer
236 or an officer of any district within a county, is a stockholder,
237 officer, or director of a bank will not bar such bank from
238 qualifying as a depository of funds coming under the
239 jurisdiction of any such public board or body, provided it
240 appears in the records of the agency that the governing body of
241 the agency has determined that such officer or member of a

HB 1377

2005
CS

242 public board or body has not favored such bank over other
243 qualified banks.

244 (h) The transaction is made pursuant to s. 1004.22 or s.
245 1004.23 and is specifically approved by the president and the
246 chair of the university board of trustees. The chair of the
247 university board of trustees shall submit to the Governor and
248 the Legislature by March 1 of each year a report of the
249 transactions approved pursuant to this paragraph during the
250 preceding year.

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

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

258 1. The price and terms of the transaction are available to
259 similarly situated members of the general public; and

260 2. The officer or employee makes full disclosure of the
261 relationship to the agency head or governing body prior to the
262 transaction.

263 (14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.--A
264 person who has been elected to any county, municipal, special
265 district, or school district office may not personally represent
266 another person or entity for compensation before the government
267 ~~governing~~ body or agency of which the person served as ~~was~~ an
268 officer for a period of 2 years after vacating that office.

HB 1377

2005
CS

269 Section 3. Subsections (4), (5), and (6) of section
 270 112.3144, Florida Statutes, are renumbered as subsections (5),
 271 (6), and (7), respectively, paragraph (g) of present subsection
 272 (4) is amended, and a new subsection (4) is added to said
 273 section to read:

274 112.3144 Full and public disclosure of financial
 275 interests.--

276 (4)(a) The reported amount of assets valued in excess of
 277 \$1,000 on forms prescribed pursuant to this section which the
 278 reporting individual holds jointly with another person shall be
 279 based on the reporting individual's legal percentage of
 280 ownership in the property, except that assets held jointly, with
 281 right of survivorship, shall be reported at 100 percent of the
 282 value of the asset. For purposes of this subsection, a reporting
 283 individual is deemed to own an interest in a partnership which
 284 corresponds to the reporting individual's interest in the
 285 capital or equity of the partnership.

286 (b)1. The reported amount of liabilities valued in excess
 287 of \$1,000 on forms prescribed pursuant to this section for which
 288 the reporting individual is jointly and severally liable shall
 289 be based upon the reporting individual's percentage of liability
 290 rather than the total amount of the liability. Debt secured by
 291 property owned by the reporting individual that is held jointly,
 292 with right of survivorship, shall be reported at 100 percent of
 293 the total amount owed.

294 2. A separate section of the form shall be created to
 295 provide for the reporting of the amounts of joint and several

HB 1377

2005
CS

296 | liability of the reporting individual not otherwise reported in
 297 | subparagraph 1.

298 | ~~(5)~~(4) Forms for compliance with the full and public
 299 | disclosure requirements of s. 8, Art. II of the State
 300 | Constitution shall be created by the Commission on Ethics. The
 301 | commission shall give notice of disclosure deadlines and
 302 | delinquencies and distribute forms in the following manner:

303 | (g) The notification requirements and fines of this
 304 | subsection do not apply to candidates or to the first filing
 305 | required of any person appointed to elective constitutional
 306 | office or other position required to file full and public
 307 | disclosure, unless the person's name is on the commission's
 308 | notification list and the person received notification from the
 309 | commission. The appointing official shall notify such newly
 310 | appointed person of the obligation to file full and public
 311 | disclosure by July 1. The notification requirements and fines of
 312 | this subsection do not apply to the final filing provided for in
 313 | subsection ~~(6)~~(5).

314 | Section 4. Paragraphs (c), (d), and (f) of subsection (6)
 315 | of section 112.3145, Florida Statutes, are amended to read:

316 | 112.3145 Disclosure of financial interests and clients
 317 | represented before agencies.--

318 | (6) Forms for compliance with the disclosure requirements
 319 | of this section and a current list of persons subject to
 320 | disclosure shall be created by the commission and provided to
 321 | each supervisor of elections. The commission and each supervisor
 322 | of elections shall give notice of disclosure deadlines and
 323 | delinquencies and distribute forms in the following manner:

HB 1377

2005
CS

324 (c) Not later than 30 days after July 1 of each year, the
 325 commission and each supervisor of elections shall determine
 326 which persons required to file a statement of financial
 327 interests in their respective offices have failed to do so and
 328 shall send delinquency notices by certified mail, return receipt
 329 requested, to such persons. Each notice shall state that a grace
 330 period is in effect until September 1 of the current year; that
 331 no investigative or disciplinary action based upon the
 332 delinquency will be taken by the agency head or commission if
 333 the statement is filed by September 1 of the current year; that,
 334 if the statement is not filed by September 1 of the current
 335 year, a fine of \$25 for each day late will be imposed, up to a
 336 maximum penalty of \$300 ~~\$1,500~~; for notices sent by a supervisor
 337 of elections, that he or she is required by law to notify the
 338 commission of the delinquency; and that, if upon the filing of a
 339 sworn complaint the commission finds that the person has failed
 340 to timely file the statement within 12 ~~60~~ days after September 1
 341 of the current year, such person will also be subject to the
 342 penalties provided in s. 112.317.

343 (d) No later than October 1 ~~November 15~~ of each year, the
 344 supervisor of elections in each county shall certify to the
 345 commission a list of the names and addresses of, and the offices
 346 or positions held by, all persons who have failed to timely file
 347 the required statements of financial interests. The
 348 certification must include the earliest of the dates described
 349 in subparagraph (f)1. The certification shall be on a form
 350 prescribed by the commission and shall indicate whether the
 351 supervisor of elections has provided the disclosure forms and

HB 1377

2005
CS

352 notice as required by this subsection to all persons named on
353 the delinquency list.

354 (f) Any person who is required to file a statement of
355 financial interests and whose name is on the commission's
356 mailing list but who fails to timely file is assessed a fine of
357 \$25 per day for each day late up to a maximum of \$300 ~~\$1,500~~;
358 however, this \$300 ~~\$1,500~~ limitation on automatic fines does not
359 limit the civil penalty that may be imposed if the statement is
360 filed more than 12 ~~60~~ days after the deadline and a complaint is
361 filed, as provided in s. 112.324. The commission must provide by
362 rule the grounds for waiving the fine and procedures by which
363 each person whose name is on the mailing list and who is
364 determined to have not filed in a timely manner will be notified
365 of assessed fines and may appeal. The rule must provide for and
366 make specific the following:

- 367 1. The amount of the fine due is based upon the earliest
368 of the following:
- 369 a. When a statement is actually received by the office.
 - 370 b. When the statement is postmarked.
 - 371 c. When the certificate of mailing is dated.
 - 372 d. When the receipt from an established courier company is
373 dated.

374 2. For a specified state employee or a state officer, upon
375 receipt of the disclosure statement by the commission or upon
376 accrual of the maximum penalty, whichever occurs first, and for
377 a local officer upon receipt by the commission of the
378 certification from the local officer's supervisor of elections
379 pursuant to paragraph (d), the commission shall determine the

HB 1377

2005
CS

380 amount of the fine which is due and shall notify the delinquent
 381 person. The notice must include an explanation of the appeal
 382 procedure under subparagraph 3. The fine must be paid within 30
 383 days after the notice of payment due is transmitted, unless
 384 appeal is made to the commission pursuant to subparagraph 3. The
 385 moneys are to be deposited into the General Revenue Fund.

386 3. Any reporting person may appeal or dispute a fine,
 387 based upon a failure of notice of the requirements to file the
 388 annual disclosure ~~unusual circumstances surrounding the failure~~
 389 ~~to file on the designated due date~~, and may request and is
 390 entitled to a hearing before the commission, which may waive the
 391 fine in whole or in part based upon a failure of adequate notice
 392 ~~for good cause shown~~. Any such request must be made within 30
 393 days after the notice of payment due is transmitted. In such a
 394 case, the reporting person must, within the 30-day period,
 395 notify the person designated to review the timeliness of reports
 396 in writing of his or her intention to bring the matter before
 397 the commission.

398 Section 5. Section 112.3147, Florida Statutes, is amended
 399 to read:

400 112.3147 Forms.--

401 ~~(1)~~ All information required to be furnished by ss.
 402 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
 403 and by s. 8, Art. II of the State Constitution shall be on forms
 404 prescribed by the Commission on Ethics.

405 ~~(2)(a) With respect to reporting assets valued in excess~~
 406 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~
 407 ~~reporting individual holds jointly with another person, the~~

HB 1377

2005
CS

408 ~~amount reported shall be based on the reporting individual's~~
 409 ~~legal percentage of ownership in the property, except that~~
 410 ~~assets held jointly with the reporting individual's spouse shall~~
 411 ~~be reported at 100 percent of the value of the asset. For~~
 412 ~~purposes of this subsection, a reporting individual is deemed to~~
 413 ~~own an interest in a partnership which corresponds to the~~
 414 ~~reporting individual's interest in the capital or equity of the~~
 415 ~~partnership.~~

416 ~~(b)1. With respect to reporting liabilities valued in~~
 417 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~
 418 ~~which the reporting individual is jointly and severally liable,~~
 419 ~~the amount reported shall be based upon the reporting~~
 420 ~~individual's percentage of liability rather than the total~~
 421 ~~amount of the liability, except, a joint and several liability~~
 422 ~~with the reporting individual's spouse for a debt which relates~~
 423 ~~to property owned by both as tenants by the entirety shall be~~
 424 ~~reported at 100 percent of the total amount owed.~~

425 ~~2. A separate section of the form shall be created to~~
 426 ~~provide for the reporting of the amounts of joint and several~~
 427 ~~liability of the reporting individual not otherwise reported in~~
 428 ~~paragraph (a).~~

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

431 112.3148 Reporting and prohibited receipt of gifts by
 432 individuals filing full or limited public disclosure of
 433 financial interests and by procurement employees.--

434 (6)

435 (d) No later than July 1 of each year, each reporting
 436 individual or procurement employee shall file a statement
 437 listing each gift having a value in excess of \$100 received by
 438 the reporting individual or procurement employee, either
 439 directly or indirectly, from a governmental entity or a direct-
 440 support organization specifically authorized by law to support a
 441 governmental entity. The statement shall list the name of the
 442 person providing the gift, a description of the gift, the date
 443 or dates on which the gift was given, and the value of the total
 444 gifts given during the calendar year for which the report is
 445 made. The reporting individual or procurement employee shall
 446 attach to such statement any report received by him or her in
 447 accordance with paragraph (c), which report shall become a
 448 public record when filed with the statement of the reporting
 449 individual or procurement employee. The reporting individual or
 450 procurement employee may explain any differences between the
 451 report of the reporting individual or procurement employee and
 452 the attached reports. The annual report filed by a reporting
 453 individual shall be filed with the financial disclosure
 454 statement required by either s. 8, Art. II of the State
 455 Constitution or s. 112.3145, as applicable to the reporting
 456 individual. The annual report filed by a procurement employee
 457 shall be filed with the Commission on Ethics. The report filed
 458 by a reporting individual or procurement employee who left
 459 office or employment during the calendar year covered by the
 460 report shall be filed by July 1 of the year after leaving office
 461 or employment at the same location as his or her final financial

HB 1377

2005
CS

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

464 (8)(a) Each reporting individual or procurement employee
465 shall file a statement with the Commission on Ethics no later
466 than ~~on~~ the last day of each calendar quarter, for the previous
467 calendar quarter, containing a list of gifts which he or she
468 believes to be in excess of \$100 in value, if any, accepted by
469 him or her, for which compensation was not provided by the donee
470 to the donor within 90 days of receipt of the gift to reduce the
471 value to \$100 or less, except the following:

- 472 1. Gifts from relatives.
- 473 2. Gifts prohibited by subsection (4) or s. 112.313(4).
- 474 3. Gifts otherwise required to be disclosed by this
475 section.

476 (b) The statement shall include:

- 477 1. A description of the gift, the monetary value of the
478 gift, the name and address of the person making the gift, and
479 the dates thereof. If any of these facts, other than the gift
480 description, are unknown or not applicable, the report shall so
481 state.

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

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

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

Page 18 of 30

490 (e) Statements shall be filed not later than 5 p.m. of the
 491 due date. However, any statement that is postmarked by the
 492 United States Postal Service by midnight of the due date shall
 493 be deemed to have been filed in a timely manner, and a
 494 certificate of mailing obtained from and dated by the United
 495 States Postal Service at the time of the mailing, or a receipt
 496 from an established courier company which bears a date on or
 497 before the due date, shall be proof of mailing in a timely
 498 manner.

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

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

505 112.3149 Solicitation and disclosure of honoraria.--

506 (6) A reporting individual or procurement employee who
 507 receives payment or provision of expenses related to any
 508 honorarium event from a person who is prohibited by subsection
 509 (4) from paying an honorarium to a reporting individual or
 510 procurement employee shall publicly disclose on an annual
 511 statement the name, address, and affiliation of the person
 512 paying or providing the expenses; the amount of the honorarium
 513 expenses; the date of the honorarium event; a description of the
 514 expenses paid or provided on each day of the honorarium event;
 515 and the total value of the expenses provided to the reporting
 516 individual or procurement employee in connection with the
 517 honorarium event. The annual statement of honorarium expenses

HB 1377

2005
CS

518 shall be filed by July 1 of each year for such expenses received
 519 during the previous calendar year. The reporting individual or
 520 procurement employee shall attach to the annual statement a copy
 521 of each statement received by him or her in accordance with
 522 subsection (5) regarding honorarium expenses paid or provided
 523 during the calendar year for which the annual statement is
 524 filed. Such attached statement shall become a public record upon
 525 the filing of the annual report. The annual statement of a
 526 reporting individual shall be filed with the financial
 527 disclosure statement required by either s. 8, Art. II of the
 528 State Constitution or s. 112.3145, as applicable to the
 529 reporting individual. The annual statement of a procurement
 530 employee shall be filed with the Commission on Ethics. The
 531 statement filed by a reporting individual or procurement
 532 employee who left office or employment during the calendar year
 533 covered by the statement shall be filed by July 1 of the year
 534 after leaving office or employment at the same location as his
 535 or her final financial disclosure statement or, in the case of a
 536 former procurement employee, with the Commission on Ethics.

537 Section 8. Subsections (1), (2), and (6) of section
 538 112.317, Florida Statutes, are amended, and subsections (7) and
 539 (8) are renumbered as subsections (6) and (7), to read:

540 112.317 Penalties.--

541 (1) Violation of any provision of this part, including,
 542 but not limited to, any failure to file any disclosures required
 543 by this part or violation of any standard of conduct imposed by
 544 this part, or violation of any provision of s. 8, Art. II of the
 545 State Constitution, in addition to any criminal penalty or other

HB 1377

2005
CS

546 | civil penalty involved, shall, pursuant to applicable
547 | constitutional and statutory procedures, constitute grounds for,
548 | and may be punished by, one or more of the following:

549 | (a) In the case of a public officer:

- 550 | 1. Impeachment.
- 551 | 2. Removal from office.
- 552 | 3. Suspension from office.
- 553 | 4. Public censure and reprimand.
- 554 | 5. Forfeiture of no more than one-third salary per month
555 | for no more than 12 months.
- 556 | 6. A civil penalty not to exceed \$10,000.

557 | 7. Restitution of any pecuniary benefits received because
558 | of the violation committed. The commission may recommend that
559 | the restitution penalty be paid to the agency of which the
560 | public officer was a member or to the General Revenue Fund of
561 | the state.

562 | (b) In the case of an employee or a person designated as a
563 | public officer by this part who otherwise would be deemed to be
564 | an employee:

- 565 | 1. Dismissal from employment.
- 566 | 2. Suspension from employment for not more than 90 days
567 | without pay.
- 568 | 3. Demotion.
- 569 | 4. Reduction in salary level.
- 570 | 5. Forfeiture of no more than one-third salary per month
571 | for no more than 12 months.
- 572 | 6. A civil penalty not to exceed \$10,000.

HB 1377

2005
CS

573 7. Restitution of any pecuniary benefits received because
574 of the violation committed. The commission may recommend that
575 the restitution penalty be paid to the agency by which such
576 public employee was employed or of which such officer was deemed
577 to be an employee or to the General Revenue Fund of the state.

578 8. Public censure and reprimand.

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

- 582 1. Disqualification from being on the ballot.
- 583 2. Public censure.
- 584 3. Reprimand.
- 585 4. A civil penalty not to exceed \$10,000.

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

- 590 1. Public censure and reprimand.
- 591 2. A civil penalty not to exceed \$10,000.
- 592 3. Restitution of any pecuniary benefits received because
593 of the violation committed. The commission may recommend that
594 the restitution penalty be paid to the agency of which such
595 public officer was a member or deemed to be an employee or by
596 which such public employee was employed or to the General
597 Revenue Fund of the state.

598 (2) In any case in which the commission finds a violation
599 of this part or of s. 8, Art. II of the State Constitution and
600 the proper disciplinary official or body under s. 112.324

HB 1377

2005
CS

601 imposes ~~recommends~~ a civil penalty or restitution penalty, the
 602 Attorney General shall bring a civil action to recover such
 603 penalty. No defense may be raised in the civil action to enforce
 604 the civil penalty or order of restitution that could have been
 605 raised by judicial review of the administrative findings and
 606 recommendations of the commission by certiorari to the district
 607 court of appeal. The Attorney General shall be entitled to
 608 collect any costs, attorney's fees, expert witness fees, or
 609 other costs of collection incurred in bringing such action.

610 ~~(6) Any person who willfully discloses, or permits to be~~
 611 ~~disclosed, his or her intention to file a complaint, the~~
 612 ~~existence or contents of a complaint which has been filed with~~
 613 ~~the commission, or any document, action, or proceeding in~~
 614 ~~connection with a confidential preliminary investigation of the~~
 615 ~~commission, before such complaint, document, action, or~~
 616 ~~proceeding becomes a public record as provided herein commits a~~
 617 ~~misdemeanor of the first degree, punishable as provided in s.~~
 618 ~~775.082 or s. 775.083.~~

619 Section 9. Section 112.3185, Florida Statutes, is amended
 620 to read:

621 112.3185 Additional standards for state agency employees
 622 ~~Contractual services.--~~

623 (1) For the purposes of this section:

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

626 (b) "Agency" means any state officer, department, board,
 627 commission, or council of the executive or judicial branch of
 628 state government and includes the Public Service Commission.

HB 1377

2005
CS

629 (2) No agency employee who participates through decision,
 630 approval, disapproval, recommendation, preparation of any part
 631 of a purchase request, influencing the content of any
 632 specification or procurement standard, rendering of advice,
 633 investigation, or auditing or in any other advisory capacity in
 634 the procurement of contractual services shall become or be,
 635 while an agency employee, the employee of a person contracting
 636 with the agency by whom the employee is employed.

637 (3) No agency employee shall, after retirement or
 638 termination, have or hold any employment or contractual
 639 relationship with any business entity other than an agency in
 640 connection with any contract in which the agency employee
 641 participated personally and substantially through decision,
 642 approval, disapproval, recommendation, rendering of advice, or
 643 investigation while an officer or employee. When the agency
 644 employee's position is eliminated and his or her duties are
 645 performed by the business entity, this subsection shall not
 646 prohibit him or her from an employment or contractual
 647 relationship with the business entity if the employee's
 648 participation in the contract during agency employment was
 649 limited to recommendation, rendering of advice, or investigation
 650 and if the agency head determines that the best interests of the
 651 state shall be served thereby and provides written approval of
 652 the employment or contractual relationship prior to the
 653 employee's employment or contractual relationship.

654 (4) No agency employee shall, within 2 years after
 655 retirement or termination, have or hold any employment or
 656 contractual relationship with any business entity other than an

HB 1377

2005
CS

657 agency in connection with any contract for contractual services
658 which was within his or her responsibility while an employee. If
659 the agency employee's position is eliminated and his or her
660 duties are performed by the business entity, the provisions of
661 this subsection may be waived by the agency head if the agency
662 head determines that the best interests of the state shall be
663 served thereby and provides written approval of the employment
664 or contractual relationship prior to the employee's employment
665 or contractual relationship.

666 (5) The sum of money paid to a former agency employee
667 during the first year after the cessation of his or her
668 responsibilities, by the agency with whom he or she was
669 employed, for contractual services provided to the agency, shall
670 not exceed the annual salary received on the date of cessation
671 of his or her responsibilities. The provisions of this
672 subsection may be waived by the agency head for a particular
673 contract if the agency head determines that such waiver will
674 result in significant time or cost savings for the state.

675 (6) No agency employee shall, after retirement or
676 termination, represent or advise another person or entity,
677 except the state, in any matter in which the employee
678 participated personally in his or her official capacity through
679 decision, approval, disapproval, recommendation, rendering of
680 advice, investigation, or otherwise while an employee. The term
681 "matter" includes any judicial or other proceeding, application,
682 request for a ruling or other determination, contract, claim,
683 controversy, investigation, charge, accusation, arrest, or other
684 particular action involving a specific party or parties.

HB 1377

2005
CS

685 (7) No agency employee acting in an official capacity
 686 shall directly or indirectly procure contractual services for
 687 his or her own agency from any business entity of which a
 688 relative is an officer, partner, director, or proprietor or in
 689 which such officer or employee or his or her spouse or child, or
 690 any combination of them, has a material interest.

691 (8)~~(7)~~ A violation of any provision of this section is
 692 punishable in accordance with s. 112.317.

693 (9)~~(8)~~ This section is not applicable to any employee of
 694 the Public Service Commission who was so employed on or before
 695 December 31, 1994.

696 Section 10. Paragraph (f) of subsection (5) of section
 697 112.3215, Florida Statutes, is amended to read:

698 112.3215 Lobbyists before the executive branch or the
 699 Constitution Revision Commission; registration and reporting;
 700 investigation by commission.--

701 (5)

702 (f) The commission shall provide by rule the grounds for
 703 waiving the fine and the procedures ~~a procedure~~ by which a
 704 lobbyist who fails to timely file a report shall be notified and
 705 assessed fines and may appeal. The rule shall provide for the
 706 following:

707 1. Upon determining that the report is late, the person
 708 designated to review the timeliness of reports shall immediately
 709 notify the lobbyist as to the failure to timely file the report
 710 and that a fine is being assessed for each late day. The fine
 711 shall be \$50 per day per report for each late day up to a
 712 maximum of \$5,000 per late report.

HB 1377

2005
CS

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

716 a. When a report is actually received by the lobbyist
717 registration and reporting office.

718 b. When the report is postmarked.

719 c. When the certificate of mailing is dated.

720 d. When the receipt from an established courier company is
721 dated.

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

727 4. A fine shall not be assessed against a lobbyist the
728 first time any reports for which the lobbyist is responsible are
729 not timely filed. However, to receive the one-time fine waiver,
730 all reports for which the lobbyist is responsible must be filed
731 within 30 days after the notice that any reports have not been
732 timely filed is transmitted by the Lobbyist Registration Office.
733 A fine shall be assessed for any subsequent late-filed reports.

734 5. Any lobbyist may appeal or dispute a fine, based upon
735 unusual circumstances surrounding the failure to file on the
736 designated due date, and may request and shall be entitled to a
737 hearing before the commission, which shall have the authority to
738 waive the fine in whole or in part for good cause shown. Any
739 such request shall be made within 30 days after the notice of
740 payment due is transmitted by the Lobbyist Registration Office.

HB 1377

2005
CS

741 In such case, the lobbyist shall, within the 30-day period,
742 notify the person designated to review the timeliness of reports
743 in writing of his or her intention to bring the matter before
744 the commission.

745 6. The person designated to review the timeliness of
746 reports shall notify the commission of the failure of a lobbyist
747 to file a report after notice or of the failure of a lobbyist to
748 pay the fine imposed. The registration of a lobbyist who fails
749 to timely pay a fine is automatically suspended until the fine
750 is paid, unless an appeal of the fine is pending before the
751 commission.

752 7. Notwithstanding any provision of chapter 120, any fine
753 imposed under this subsection that is not waived by final order
754 of the commission and that remains unpaid more than 60 days
755 after the notice of payment due or more than 60 days after the
756 commission renders a final order on the lobbyist's appeal shall
757 be collected by the Department of Financial Services as a claim,
758 debt, or other obligation owed to the state, and the department
759 may assign the collection of such fine to a collection agent as
760 provided in s. 17.20.

761 Section 11. Subsection (4) of section 112.322, Florida
762 Statutes, is amended to read:

763 112.322 Duties and powers of commission.--

764 (4) The commission has the power to subpoena, audit, and
765 investigate. The commission may subpoena witnesses and compel
766 their attendance and testimony, administer oaths and
767 affirmations, take evidence, and require by subpoena the
768 production of any books, papers, records, or other items

HB 1377

2005
CS

769 relevant to the performance of the duties of the commission or
 770 to the exercise of its powers. The commission may delegate to
 771 its investigators the authority to administer oaths and
 772 affirmations. The commission may delegate the authority to issue
 773 subpoenas to its chair, and may authorize its employees to serve
 774 any subpoena issued under this section. In the case of a refusal
 775 to obey a subpoena issued to any person, the commission may make
 776 application to any circuit court of this state which shall have
 777 jurisdiction to order the witness to appear before the
 778 commission and to produce evidence, if so ordered, or to give
 779 testimony touching on the matter in question. Failure to obey
 780 the order may be punished by the court as contempt. Witnesses
 781 shall be paid mileage and witnesses fees as authorized for
 782 witnesses in civil cases, except that a witness who is required
 783 to travel outside the county of his or her residence to testify
 784 shall be entitled to per diem and travel expenses at the same
 785 rate provided for state employees under s. 112.061, to be paid
 786 after the witness appears.

787 Section 12. Subsections (3) and (4) of section 914.21,
 788 Florida Statutes, are amended to read:

789 914.21 Definitions.--As used in ss. 914.22-914.24, the
 790 term:

791 (3) "Official investigation" means any investigation
 792 instituted by a law enforcement agency or prosecuting officer of
 793 the state or a political subdivision of the state or any
 794 investigation conducted by the Florida Commission on Ethics.

795 (4) "Official proceeding" means:

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

HB 1377

2005
CS

797 (b) A proceeding before the Legislature; ~~or~~
798 (c) A proceeding before a federal agency which is
799 authorized by law; or
800 (d) A proceeding before the Florida Commission on Ethics.
801 Section 13. This act shall take effect July 1, 2005.