

CHAMBER ACTION

1 The State Administration Council 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

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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 | amending s. 112.3147, F.S.; requiring an attestation with
28 | respect to information provided on required forms;
29 | deleting a redundant provision; amending s. 112.3148,
30 | F.S.; requiring gift disclosure forms of individuals who
31 | left office or employment during the calendar year to be
32 | filed by a date certain; allowing quarterly gift
33 | disclosure forms to be considered timely filed if
34 | postmarked on or before the due date; amending s.
35 | 112.3149, F.S.; requiring gift disclosure statements of
36 | individuals who left office or employment during the
37 | calendar year to be filed by a date certain; amending s.
38 | 112.317, F.S.; authorizing the commission to recommend
39 | restitution be paid to the agency damaged by the violation
40 | or to the General Revenue Fund; authorizing the Attorney
41 | General to collect certain costs and fees incurred in
42 | bringing certain actions; deleting a provision rendering a
43 | breach of confidentiality of an ethics proceeding a
44 | misdemeanor; amending s. 112.3185, F.S.; providing for
45 | certain former agency employees to be employed by or have
46 | a contractual relationship with certain business entities;
47 | prohibiting a former agency employee from representing a
48 | client before the employee's former agency in certain
49 | matters; amending s. 112.3215, F.S.; revising the
50 | commission's rulemaking authority regarding appeals of
51 | certain fines; providing for automatic suspended

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

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52 registration for lobbyists who fail to timely pay a
 53 certain fine; providing an exception; requiring the
 54 commission to provide written notice to any lobbyist whose
 55 registration is automatically suspended; amending s.
 56 112.322, F.S.; revising provisions relating to payment of
 57 witnesses; amending s. 914.21, F.S.; revising definitions;
 58 providing an effective date.

59

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

61

62 Section 1. Subsections (2) and (3) of section 104.31,
 63 Florida Statutes, are renumbered as subsections (3) and (4),
 64 respectively, and a new subsection (2) is added to said section,
 65 to read:

66 104.31 Political activities of state, county, and
 67 municipal officers and employees.--

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

73 Section 2. Subsections (8), (9), (12), and (14) of section
 74 112.313, Florida Statutes, are amended to read:

75 112.313 Standards of conduct for public officers,
 76 employees of agencies, and local government attorneys.--

77 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current
 78 or former public officer, employee of an agency, or local
 79 government attorney shall disclose or use information not

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80 | available to members of the general public and gained by reason
 81 | of his or her official position, except for information relating
 82 | exclusively to governmental practices, for his or her personal
 83 | gain or benefit or for the personal gain or benefit of any other
 84 | person or business entity.

85 | (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR
 86 | LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

87 | (a)1. It is the intent of the Legislature to implement by
 88 | statute the provisions of s. 8(e), Art. II of the State
 89 | Constitution relating to legislators, statewide elected
 90 | officers, appointed state officers, and designated public
 91 | employees.

92 | 2. As used in this paragraph:

93 | a. "Employee" means:

94 | (I) Any person employed in the executive or legislative
 95 | branch of government holding a position in the Senior Management
 96 | Service as defined in s. 110.402 or any person holding a
 97 | position in the Selected Exempt Service as defined in s. 110.602
 98 | or any person having authority over policy or procurement
 99 | employed by the Department of the Lottery.

100 | (II) The Auditor General, the director of the Office of
 101 | Program Policy Analysis and Government Accountability, the
 102 | Sergeant at Arms and Secretary of the Senate, and the Sergeant
 103 | at Arms and Clerk of the House of Representatives.

104 | (III) The executive director of the Legislative Committee
 105 | on Intergovernmental Relations and the executive director and
 106 | deputy executive director of the Commission on Ethics.

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

117 (V) The Chancellor and Vice Chancellors of the State
 118 University System; the general counsel to the Board of Regents;
 119 and the president, vice presidents, and deans of each state
 120 university.

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

124 b. "Appointed state officer" means any member of an
 125 appointive board, commission, committee, council, or authority
 126 of the executive or legislative branch of state government whose
 127 powers, jurisdiction, and authority are not solely advisory and
 128 include the final determination or adjudication of any personal
 129 or property rights, duties, or obligations, other than those
 130 relative to its internal operations.

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

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

143 4. No agency employee shall personally represent another
144 person or entity for compensation before the agency with which
145 he or she was employed for a period of 2 years following
146 vacation of position, unless employed by another agency of state
147 government.

148 5. Any person violating this paragraph shall be subject to
149 the penalties provided in s. 112.317 and a civil penalty of an
150 amount equal to the compensation which the person receives for
151 the prohibited conduct.

152 6. This paragraph is not applicable to:

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

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

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

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

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

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

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

177 (12) EXEMPTION.--The requirements of subsections (3) and
178 (7) as they pertain to persons serving on advisory boards may be
179 waived in a particular instance by the body which appointed the
180 person to the advisory board, upon a full disclosure of the
181 transaction or relationship to the appointing body prior to the
182 waiver and an affirmative vote in favor of waiver by two-thirds
183 vote of that body. In instances in which appointment to the
184 advisory board is made by an individual, waiver may be effected,
185 after public hearing, by a determination by the appointing
186 person and full disclosure of the transaction or relationship by
187 the appointee to the appointing person. In addition, no person

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188 shall be held in violation of subsection (3) or subsection (7)
189 if:

190 (a) Within a city or county the business is transacted
191 under a rotation system whereby the business transactions are
192 rotated among all qualified suppliers of the goods or services
193 within the city or county.

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

196 1. The official or the official's spouse or child has in
197 no way participated in the determination of the bid
198 specifications or the determination of the lowest or best
199 bidder;

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

204 3. The official, prior to or at the time of the submission
205 of the bid, has filed a statement with the Commission on Ethics
206 ~~Department of State~~, if the official is a state officer or
207 employee, or with the supervisor of elections of the county in
208 which the agency has its principal office, if the official is an
209 officer or employee of a political subdivision, disclosing the
210 official's interest, or the interest of the official's spouse or
211 child, and the nature of the intended business.

212 (c) The purchase or sale is for legal advertising in a
213 newspaper, for any utilities service, or for passage on a common
214 carrier.

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

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

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

229 (g) The fact that a county or municipal officer or member
230 of a public board or body, including a district school officer
231 or an officer of any district within a county, is a stockholder,
232 officer, or director of a bank will not bar such bank from
233 qualifying as a depository of funds coming under the
234 jurisdiction of any such public board or body, provided it
235 appears in the records of the agency that the governing body of
236 the agency has determined that such officer or member of a
237 public board or body has not favored such bank over other
238 qualified banks.

239 (h) The transaction is made pursuant to s. 1004.22 or s.
240 1004.23 and is specifically approved by the president and the
241 chair of the university board of trustees. The chair of the
242 university board of trustees shall submit to the Governor and

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243 | the Legislature by March 1 of each year a report of the
244 | transactions approved pursuant to this paragraph during the
245 | preceding year.

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

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

253 | 1. The price and terms of the transaction are available to
254 | similarly situated members of the general public; and

255 | 2. The officer or employee makes full disclosure of the
256 | relationship to the agency head or governing body prior to the
257 | transaction.

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

264 | Section 3. Subsections (4), (5), and (6) of section
265 | 112.3144, Florida Statutes, are renumbered as subsections (5),
266 | (6), and (7), respectively, paragraph (g) of present subsection
267 | (4) is amended, and a new subsection (4) is added to said
268 | section, to read:

269 | 112.3144 Full and public disclosure of financial
270 | interests.--

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271 (4) (a) The reported amount of assets valued in excess of
272 \$1,000 on forms prescribed pursuant to this section which the
273 reporting individual holds jointly with another person shall be
274 based on the reporting individual's legal percentage of
275 ownership in the property, except that assets held jointly, with
276 right of survivorship, shall be reported at 100 percent of the
277 value of the asset. For purposes of this subsection, a reporting
278 individual is deemed to own an interest in a partnership which
279 corresponds to the reporting individual's interest in the
280 capital or equity of the partnership.

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

289 2. A separate section of the form shall be created to
290 provide for the reporting of the amounts of joint and several
291 liability of the reporting individual not otherwise reported in
292 subparagraph 1.

293 (5)(4) Forms for compliance with the full and public
294 disclosure requirements of s. 8, Art. II of the State
295 Constitution shall be created by the Commission on Ethics. The
296 commission shall give notice of disclosure deadlines and
297 delinquencies and distribute forms in the following manner:

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

309 Section 4. Paragraph (c) of subsection (6) of section
 310 112.3145, Florida Statutes, is amended to read:

311 112.3145 Disclosure of financial interests and clients
 312 represented before agencies.--

313 (6) Forms for compliance with the disclosure requirements
 314 of this section and a current list of persons subject to
 315 disclosure shall be created by the commission and provided to
 316 each supervisor of elections. The commission and each supervisor
 317 of elections shall give notice of disclosure deadlines and
 318 delinquencies and distribute forms in the following manner:

319 (c) Not later than 30 days after July 1 of each year, the
 320 commission and each supervisor of elections shall determine
 321 which persons required to file a statement of financial
 322 interests in their respective offices have failed to do so and
 323 shall send delinquency notices by certified mail, return receipt
 324 requested, to such persons. Each notice shall state that a grace
 325 period is in effect until September 1 of the current year; that

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326 no investigative or disciplinary action based upon the
 327 delinquency will be taken by the agency head or commission if
 328 the statement is filed by September 1 of the current year; that,
 329 if the statement is not filed by September 1 of the current
 330 year, a fine of \$25 for each day late will be imposed, up to a
 331 maximum penalty of \$1,500; for notices sent by a supervisor of
 332 elections, that he or she is required by law to notify the
 333 commission of the delinquency; and that, if upon the filing of a
 334 sworn complaint the commission finds that the person has failed
 335 to timely file the statement within 60 days after September 1 of
 336 the current year, such person will also be subject to the
 337 penalties provided in s. 112.317.

338 Section 5. Section 112.3147, Florida Statutes, is amended
 339 to read:

340 112.3147 Forms.--

341 ~~(1)~~ All information required to be furnished by ss.
 342 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
 343 and by s. 8, Art. II of the State Constitution shall be on forms
 344 prescribed by the Commission on Ethics. Persons shall attest
 345 that the information disclosed on the forms and any attachments
 346 is true, accurate, and complete, in all material aspects, to the
 347 best of their knowledge.

348 ~~(2)(a) With respect to reporting assets valued in excess~~
 349 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~
 350 ~~reporting individual holds jointly with another person, the~~
 351 ~~amount reported shall be based on the reporting individual's~~
 352 ~~legal percentage of ownership in the property, except that~~
 353 ~~assets held jointly with the reporting individual's spouse shall~~

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354 ~~be reported at 100 percent of the value of the asset. For~~
355 ~~purposes of this subsection, a reporting individual is deemed to~~
356 ~~own an interest in a partnership which corresponds to the~~
357 ~~reporting individual's interest in the capital or equity of the~~
358 ~~partnership.~~

359 ~~(b)1. With respect to reporting liabilities valued in~~
360 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~
361 ~~which the reporting individual is jointly and severally liable,~~
362 ~~the amount reported shall be based upon the reporting~~
363 ~~individual's percentage of liability rather than the total~~
364 ~~amount of the liability, except, a joint and several liability~~
365 ~~with the reporting individual's spouse for a debt which relates~~
366 ~~to property owned by both as tenants by the entirety shall be~~
367 ~~reported at 100 percent of the total amount owed.~~

368 ~~2. A separate section of the form shall be created to~~
369 ~~provide for the reporting of the amounts of joint and several~~
370 ~~liability of the reporting individual not otherwise reported in~~
371 ~~paragraph (a).~~

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

374 112.3148 Reporting and prohibited receipt of gifts by
375 individuals filing full or limited public disclosure of
376 financial interests and by procurement employees.--

377 (6)

378 (d) No later than July 1 of each year, each reporting
379 individual or procurement employee shall file a statement
380 listing each gift having a value in excess of \$100 received by
381 the reporting individual or procurement employee, either

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382 directly or indirectly, from a governmental entity or a direct-
383 support organization specifically authorized by law to support a
384 governmental entity. The statement shall list the name of the
385 person providing the gift, a description of the gift, the date
386 or dates on which the gift was given, and the value of the total
387 gifts given during the calendar year for which the report is
388 made. The reporting individual or procurement employee shall
389 attach to such statement any report received by him or her in
390 accordance with paragraph (c), which report shall become a
391 public record when filed with the statement of the reporting
392 individual or procurement employee. The reporting individual or
393 procurement employee may explain any differences between the
394 report of the reporting individual or procurement employee and
395 the attached reports. The annual report filed by a reporting
396 individual shall be filed with the financial disclosure
397 statement required by either s. 8, Art. II of the State
398 Constitution or s. 112.3145, as applicable to the reporting
399 individual. The annual report filed by a procurement employee
400 shall be filed with the Commission on Ethics. The report filed
401 by a reporting individual or procurement employee who left
402 office or employment during the calendar year covered by the
403 report shall be filed by July 1 of the year after leaving office
404 or employment at the same location as his or her final financial
405 disclosure statement or, in the case of a former procurement
406 employee, with the Commission on Ethics.

407 (8) (a) Each reporting individual or procurement employee
408 shall file a statement with the Commission on Ethics no later
409 than ~~on~~ the last day of each calendar quarter, for the previous

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410 calendar quarter, containing a list of gifts which he or she
411 believes to be in excess of \$100 in value, if any, accepted by
412 him or her, for which compensation was not provided by the donee
413 to the donor within 90 days of receipt of the gift to reduce the
414 value to \$100 or less, except the following:

- 415 1. Gifts from relatives.
- 416 2. Gifts prohibited by subsection (4) or s. 112.313(4).
- 417 3. Gifts otherwise required to be disclosed by this
418 section.

419 (b) The statement shall include:

- 420 1. A description of the gift, the monetary value of the
421 gift, the name and address of the person making the gift, and
422 the dates thereof. If any of these facts, other than the gift
423 description, are unknown or not applicable, the report shall so
424 state.

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

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

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

433 (e) Statements shall be filed not later than 5 p.m. of the
434 due date. However, any statement that is postmarked by the
435 United States Postal Service by midnight of the due date shall
436 be deemed to have been filed in a timely manner, and a
437 certificate of mailing obtained from and dated by the United

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438 States Postal Service at the time of the mailing, or a receipt
439 from an established courier company which bears a date on or
440 before the due date, shall be proof of mailing in a timely
441 manner.

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

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

448 112.3149 Solicitation and disclosure of honoraria.--

449 (6) A reporting individual or procurement employee who
450 receives payment or provision of expenses related to any
451 honorarium event from a person who is prohibited by subsection
452 (4) from paying an honorarium to a reporting individual or
453 procurement employee shall publicly disclose on an annual
454 statement the name, address, and affiliation of the person
455 paying or providing the expenses; the amount of the honorarium
456 expenses; the date of the honorarium event; a description of the
457 expenses paid or provided on each day of the honorarium event;
458 and the total value of the expenses provided to the reporting
459 individual or procurement employee in connection with the
460 honorarium event. The annual statement of honorarium expenses
461 shall be filed by July 1 of each year for such expenses received
462 during the previous calendar year. The reporting individual or
463 procurement employee shall attach to the annual statement a copy
464 of each statement received by him or her in accordance with
465 subsection (5) regarding honorarium expenses paid or provided

466 | during the calendar year for which the annual statement is
 467 | filed. Such attached statement shall become a public record upon
 468 | the filing of the annual report. The annual statement of a
 469 | reporting individual shall be filed with the financial
 470 | disclosure statement required by either s. 8, Art. II of the
 471 | State Constitution or s. 112.3145, as applicable to the
 472 | reporting individual. The annual statement of a procurement
 473 | employee shall be filed with the Commission on Ethics. The
 474 | statement filed by a reporting individual or procurement
 475 | employee who left office or employment during the calendar year
 476 | covered by the statement shall be filed by July 1 of the year
 477 | after leaving office or employment at the same location as his
 478 | or her final financial disclosure statement or, in the case of a
 479 | former procurement employee, with the Commission on Ethics.

480 | Section 8. Subsections (1), (2), and (6) of section
 481 | 112.317, Florida Statutes, are amended, and subsections (7) and
 482 | (8) are renumbered as subsections (6) and (7), to read:

483 | 112.317 Penalties.--

484 | (1) Violation of any provision of this part, including,
 485 | but not limited to, any failure to file any disclosures required
 486 | by this part or violation of any standard of conduct imposed by
 487 | this part, or violation of any provision of s. 8, Art. II of the
 488 | State Constitution, in addition to any criminal penalty or other
 489 | civil penalty involved, shall, pursuant to applicable
 490 | constitutional and statutory procedures, constitute grounds for,
 491 | and may be punished by, one or more of the following:

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

493 | 1. Impeachment.

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- 494 2. Removal from office.
- 495 3. Suspension from office.
- 496 4. Public censure and reprimand.
- 497 5. Forfeiture of no more than one-third salary per month
- 498 for no more than 12 months.

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

500 7. Restitution of any pecuniary benefits received because

501 of the violation committed. The commission may recommend that

502 the restitution penalty be paid to the agency of which the

503 public officer was a member or to the General Revenue Fund of

504 the state.

505 (b) In the case of an employee or a person designated as a

506 public officer by this part who otherwise would be deemed to be

507 an employee:

508 1. Dismissal from employment.

509 2. Suspension from employment for not more than 90 days

510 without pay.

511 3. Demotion.

512 4. Reduction in salary level.

513 5. Forfeiture of no more than one-third salary per month

514 for no more than 12 months.

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

516 7. Restitution of any pecuniary benefits received because

517 of the violation committed. The commission may recommend that

518 the restitution penalty be paid to the agency by which such

519 public employee was employed or of which such officer was deemed

520 to be an employee or to the General Revenue Fund of the state.

521 8. Public censure and reprimand.

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

- 525 1. Disqualification from being on the ballot.
- 526 2. Public censure.
- 527 3. Reprimand.
- 528 4. A civil penalty not to exceed \$10,000.

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

- 533 1. Public censure and reprimand.
- 534 2. A civil penalty not to exceed \$10,000.
- 535 3. Restitution of any pecuniary benefits received because
536 of the violation committed. The commission may recommend that
537 the restitution penalty be paid to the agency of which such
538 public officer was a member or deemed to be an employee or by
539 which such public employee was employed or to the General
540 Revenue Fund of the state.

541 (2) In any case in which the commission finds a violation
542 of this part or of s. 8, Art. II of the State Constitution and
543 the proper disciplinary official or body under s. 112.324
544 imposes ~~recommends~~ a civil penalty or restitution penalty, the
545 Attorney General shall bring a civil action to recover such
546 penalty. No defense may be raised in the civil action to enforce
547 the civil penalty or order of restitution that could have been
548 raised by judicial review of the administrative findings and
549 recommendations of the commission by certiorari to the district

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550 court of appeal. The Attorney General shall be entitled to
551 collect any costs, attorney's fees, expert witness fees, or
552 other costs of collection incurred in bringing such action.

553 ~~(6) Any person who willfully discloses, or permits to be~~
554 ~~disclosed, his or her intention to file a complaint, the~~
555 ~~existence or contents of a complaint which has been filed with~~
556 ~~the commission, or any document, action, or proceeding in~~
557 ~~connection with a confidential preliminary investigation of the~~
558 ~~commission, before such complaint, document, action, or~~
559 ~~proceeding becomes a public record as provided herein commits a~~
560 ~~misdemeanor of the first degree, punishable as provided in s.~~
561 ~~775.082 or s. 775.083.~~

562 Section 9. Section 112.3185, Florida Statutes, is amended
563 to read:

564 112.3185 Additional standards for state agency employees
565 ~~Contractual services.--~~

566 (1) For the purposes of this section:

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

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

572 (2) No agency employee who participates through decision,
573 approval, disapproval, recommendation, preparation of any part
574 of a purchase request, influencing the content of any
575 specification or procurement standard, rendering of advice,
576 investigation, or auditing or in any other advisory capacity in
577 the procurement of contractual services shall become or be,

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578 while an agency employee, the employee of a person contracting
579 with the agency by whom the employee is employed.

580 (3) No agency employee shall, after retirement or
581 termination, have or hold any employment or contractual
582 relationship with any business entity other than an agency in
583 connection with any contract in which the agency employee
584 participated personally and substantially through decision,
585 approval, disapproval, recommendation, rendering of advice, or
586 investigation while an officer or employee. When the agency
587 employee's position is eliminated and his or her duties are
588 performed by the business entity, this subsection shall not
589 prohibit him or her from an employment or contractual
590 relationship with the business entity if the employee's
591 participation in the contract during agency employment was
592 limited to recommendation, rendering of advice, or investigation
593 and if the agency head determines that the best interests of the
594 state shall be served thereby and provides written approval of
595 the employment or contractual relationship prior to the
596 employee's employment or contractual relationship.

597 (4) No agency employee shall, within 2 years after
598 retirement or termination, have or hold any employment or
599 contractual relationship with any business entity other than an
600 agency in connection with any contract for contractual services
601 which was within his or her responsibility while an employee. If
602 the agency employee's position is eliminated and his or her
603 duties are performed by the business entity, the provisions of
604 this subsection may be waived by the agency head if the agency
605 head determines that the best interests of the state shall be

606 served thereby and provides written approval of the employment
607 or contractual relationship prior to the employee's employment
608 or contractual relationship.

609 (5) The sum of money paid to a former agency employee
610 during the first year after the cessation of his or her
611 responsibilities, by the agency with whom he or she was
612 employed, for contractual services provided to the agency, shall
613 not exceed the annual salary received on the date of cessation
614 of his or her responsibilities. The provisions of this
615 subsection may be waived by the agency head for a particular
616 contract if the agency head determines that such waiver will
617 result in significant time or cost savings for the state.

618 (6) No agency employee shall, after retirement or
619 termination, represent or advise another person or entity,
620 except the state, in any matter in which the employee
621 participated personally in his or her official capacity through
622 decision, approval, disapproval, recommendation, rendering of
623 advice, investigation, or otherwise while an employee. The term
624 "matter" includes any judicial or other proceeding, application,
625 request for a ruling or other determination, contract, claim,
626 controversy, investigation, charge, accusation, arrest, or other
627 particular action involving a specific party or parties.

628 (7) No agency employee acting in an official capacity
629 shall directly or indirectly procure contractual services for
630 his or her own agency from any business entity of which a
631 relative is an officer, partner, director, or proprietor or in
632 which such officer or employee or his or her spouse or child, or
633 any combination of them, has a material interest.

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634 ~~(8)(7)~~ A violation of any provision of this section is
635 punishable in accordance with s. 112.317.

636 ~~(9)(8)~~ This section is not applicable to any employee of
637 the Public Service Commission who was so employed on or before
638 December 31, 1994.

639 Section 10. Paragraph (f) of subsection (5) of section
640 112.3215, Florida Statutes, is amended to read:

641 112.3215 Lobbyists before the executive branch or the
642 Constitution Revision Commission; registration and reporting;
643 investigation by commission.--

644 (5)

645 (f) The commission shall provide by rule the grounds for
646 waiving the fine and the procedures ~~a procedure~~ by which a
647 lobbyist who fails to timely file a report shall be notified and
648 assessed fines and may appeal. The rule shall provide for the
649 following:

650 1. Upon determining that the report is late, the person
651 designated to review the timeliness of reports shall immediately
652 notify the lobbyist as to the failure to timely file the report
653 and that a fine is being assessed for each late day. The fine
654 shall be \$50 per day per report for each late day up to a
655 maximum of \$5,000 per late report.

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

659 a. When a report is actually received by the lobbyist
660 registration and reporting office.

661 b. When the report is postmarked.

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662 c. When the certificate of mailing is dated.

663 d. When the receipt from an established courier company is
664 dated.

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

670 4. A fine shall not be assessed against a lobbyist the
671 first time any reports for which the lobbyist is responsible are
672 not timely filed. However, to receive the one-time fine waiver,
673 all reports for which the lobbyist is responsible must be filed
674 within 30 days after the notice that any reports have not been
675 timely filed is transmitted by the Lobbyist Registration Office.
676 A fine shall be assessed for any subsequent late-filed reports.

677 5. Any lobbyist may appeal or dispute a fine, based upon
678 unusual circumstances surrounding the failure to file on the
679 designated due date, and may request and shall be entitled to a
680 hearing before the commission, which shall have the authority to
681 waive the fine in whole or in part for good cause shown. Any
682 such request shall be made within 30 days after the notice of
683 payment due is transmitted by the Lobbyist Registration Office.
684 In such case, the lobbyist shall, within the 30-day period,
685 notify the person designated to review the timeliness of reports
686 in writing of his or her intention to bring the matter before
687 the commission.

688 6. The person designated to review the timeliness of
689 reports shall notify the commission of the failure of a lobbyist

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690 to file a report after notice or of the failure of a lobbyist to
691 pay the fine imposed. The registration of a lobbyist who fails
692 to timely pay a fine is automatically suspended until the fine
693 is paid, unless an appeal of the fine is pending before the
694 commission. The commission shall provide a written suspension
695 notice to each lobbyist whose registration has been
696 automatically suspended.

697 7. Notwithstanding any provision of chapter 120, any fine
698 imposed under this subsection that is not waived by final order
699 of the commission and that remains unpaid more than 60 days
700 after the notice of payment due or more than 60 days after the
701 commission renders a final order on the lobbyist's appeal shall
702 be collected by the Department of Financial Services as a claim,
703 debt, or other obligation owed to the state, and the department
704 may assign the collection of such fine to a collection agent as
705 provided in s. 17.20.

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

708 112.322 Duties and powers of commission.--

709 (4) The commission has the power to subpoena, audit, and
710 investigate. The commission may subpoena witnesses and compel
711 their attendance and testimony, administer oaths and
712 affirmations, take evidence, and require by subpoena the
713 production of any books, papers, records, or other items
714 relevant to the performance of the duties of the commission or
715 to the exercise of its powers. The commission may delegate to
716 its investigators the authority to administer oaths and
717 affirmations. The commission may delegate the authority to issue

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718 subpoenas to its chair, and may authorize its employees to serve
 719 any subpoena issued under this section. In the case of a refusal
 720 to obey a subpoena issued to any person, the commission may make
 721 application to any circuit court of this state which shall have
 722 jurisdiction to order the witness to appear before the
 723 commission and to produce evidence, if so ordered, or to give
 724 testimony touching on the matter in question. Failure to obey
 725 the order may be punished by the court as contempt. Witnesses
 726 shall be paid mileage and witnesses fees as authorized for
 727 witnesses in civil cases, except that a witness who is required
 728 to travel outside the county of his or her residence to testify
 729 shall be entitled to per diem and travel expenses at the same
 730 rate provided for state employees under s. 112.061, to be paid
 731 after the witness appears.

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

734 914.21 Definitions.--As used in ss. 914.22-914.24, the
 735 term:

736 (3) "Official investigation" means any investigation
 737 instituted by a law enforcement agency or prosecuting officer of
 738 the state or a political subdivision of the state or any
 739 investigation conducted by the Florida Commission on Ethics.

740 (4) "Official proceeding" means:

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

742 (b) A proceeding before the Legislature; ~~or~~

743 (c) A proceeding before a federal agency which is
 744 authorized by law; or

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

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Section 13. This act shall take effect October 1, 2005.