

1 A bill to be entitled
2 An act relating to public officers and employees; amending
3 s. 112.215, F.S.; revising the term "employee" and
4 defining the term "governmental entity"; authorizing
5 governmental entities, by ordinance, contract agreement,
6 or other documentation, to participate in the deferred
7 compensation plan of the state and specifying
8 responsibility of the Chief Financial Officer with respect
9 thereto; amending s. 20.121, F.S., relating to the
10 Department of Financial Services, to conform; amending s.
11 104.31, F.S.; prohibiting state or political subdivision
12 employees from participating in political campaigns during
13 on-duty hours or certain other hours; amending s. 112.313,
14 F.S.; applying the prohibition on disclosure or use of
15 certain information to former public officers, public
16 employees, and local government attorneys; providing an
17 exception to such prohibition; revising postemployment
18 restrictions to apply to other-personal-services temporary
19 employees; exempting certain agency employees from
20 postemployment restrictions; providing for certain
21 disclosure statements to be filed with the Commission on
22 Ethics instead of the Department of State; revising a
23 prohibition on lobbying by former local officers to
24 preclude representation before the government body or
25 agency an officer has served; providing applicability;
26 amending s. 112.3144, F.S.; providing for reporting of
27 assets held by joint tenancy, joint tenancy with right of
28 survivorship, and partnership and reporting of certain

29 liabilities; amending s. 112.3145, F.S.; requiring the
30 commission to send delinquency notices with return receipt
31 requested; amending s. 112.3147, F.S.; requiring an
32 attestation with respect to information provided on
33 required forms; deleting a redundant provision; amending
34 s. 112.3148, F.S.; requiring gift disclosure forms of
35 individuals who left office or employment during the
36 calendar year to be filed by a date certain; allowing
37 quarterly gift disclosure forms to be considered timely
38 filed if postmarked on or before the due date; amending s.
39 112.3149, F.S.; requiring gift disclosure statements of
40 individuals who left office or employment during the
41 calendar year to be filed by a date certain; amending s.
42 112.317, F.S.; authorizing the commission to recommend
43 restitution be paid to the agency damaged by the violation
44 or to the General Revenue Fund; authorizing the Attorney
45 General to collect certain costs and fees incurred in
46 bringing certain actions; deleting a provision rendering a
47 breach of confidentiality of an ethics proceeding a
48 misdemeanor; amending s. 112.3185, F.S.; providing for
49 certain former agency employees to be employed by or have
50 a contractual relationship with certain business entities;
51 prohibiting a former agency employee from representing a
52 client before the employee's former agency in certain
53 matters; amending s. 112.3215, F.S.; revising the
54 commission's rulemaking authority regarding appeals of
55 certain fines; providing for automatic suspended
56 registration for lobbyists who fail to timely pay a

57 | certain fine; providing an exception; requiring the
 58 | commission to provide written notice to any lobbyist whose
 59 | registration is automatically suspended; amending s.
 60 | 112.322, F.S.; revising provisions relating to payment of
 61 | witnesses; amending s. 914.21, F.S.; revising definitions;
 62 | providing an effective date.

63 |

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

65 |

66 | Section 1. Paragraph (d) of subsection (2) of section
 67 | 20.121, Florida Statutes, as amended by chapter 2004-301, Laws
 68 | of Florida, is amended to read:

69 | 20.121 Department of Financial Services.--There is created
 70 | a Department of Financial Services.

71 | (2) DIVISIONS.--The Department of Financial Services shall
 72 | consist of the following divisions:

73 | (d) The Division of Treasury, which shall include a Bureau
 74 | of Deferred Compensation responsible for administering the
 75 | Government Employees Deferred Compensation Plan as provided in
 76 | ~~established under s. 112.215 for state employees.~~

77 | Section 2. Subsection (2), paragraphs (a) and (d) of
 78 | subsection (4), and subsections (5), (6), and (12) of section
 79 | 112.215, Florida Statutes, are amended to read:

80 | 112.215 Government employees; deferred compensation
 81 | program.--

82 | (2) (a) For the purposes of this section, the term
 83 | "employee" means any person, whether appointed, elected, or
 84 | under contract, providing services for a governmental entity ~~the~~

85 ~~state; any state agency or county or other political subdivision~~
 86 ~~of the state; any municipality; any state university board of~~
 87 ~~trustees; or any constitutional county officer under s. 1(d),~~
 88 ~~Art. VIII of the State Constitution~~ for which compensation or
 89 statutory fees are paid.

90 (b) "Governmental entity" means the state; any state
 91 agency or county or other political subdivision of the state;
 92 any municipality; any state university board of trustees; or any
 93 constitutional county officer under s. 1(d), Art. VIII of the
 94 State Constitution.

95 (4) (a) The Chief Financial Officer, with the approval of
 96 the State Board of Administration, shall establish such plan or
 97 plans of deferred compensation for ~~state~~ employees of
 98 governmental entities, including all such investment vehicles or
 99 products incident thereto, as may be available through, or
 100 offered by, qualified companies or persons, and may approve one
 101 or more such plans for implementation by and on behalf of
 102 governmental entities ~~the state~~ and their ~~its~~ agencies and
 103 employees.

104 (d) In accordance with such approved plan, and upon
 105 contract or agreement with an eligible employee, deferrals of
 106 compensation may be accomplished by payroll deductions made by
 107 the appropriate officer or officers of the governmental entity
 108 ~~state~~, with such funds being thereafter held and administered in
 109 accordance with the plan.

110 (5) Any county, municipality, or other political
 111 subdivision of the state may by ordinance, and any
 112 constitutional county officer under s. 1(d), Art. VIII of the

113 State Constitution of 1968 may by contract agreement or other
 114 documentation constituting approval, for itself and its
 115 employees:

116 (a) Adopt and establish ~~for itself and its employees~~ a
 117 deferred compensation program. The ordinance shall designate an
 118 appropriate official of the county, municipality, or political
 119 subdivision to approve and administer a deferred compensation
 120 plan or otherwise provide for such approval and administration.
 121 The ordinance shall also designate a public official or body to
 122 make the determinations provided for in paragraph (6) (b). If a
 123 constitutional county officer elects to adopt and establish for
 124 that office and its employees a deferred compensation program,
 125 the constitutional county officer shall be the appropriate
 126 official to make the determinations provided for in this
 127 subsection and in paragraph (6) (b);-

128 (b) Adopt the deferred compensation program of the state;
 129 or

130 (c) Both adopt and establish a deferred compensation
 131 program and adopt the state's deferred compensation program.

132 (6) (a) No deferred compensation plan of the state shall
 133 become effective until approved by the State Board of
 134 Administration and the Chief Financial Officer is satisfied by
 135 opinion from such federal agency or agencies as may be deemed
 136 necessary that the compensation deferred thereunder, ~~and/or~~ the
 137 investment products purchased pursuant to the plan, or both will
 138 not be included in the employee's taxable income under federal
 139 or state law until it is actually received by such employee
 140 under the terms of the plan, and that such compensation will

141 nonetheless be deemed compensation at the time of deferral for
142 the purposes of social security coverage, for the purposes of
143 the state retirement system, or ~~and~~ for any other retirement,
144 pension, or benefit program established by law.

145 (b) No deferred compensation plan adopted and established
146 by ~~of~~ a county, municipality, other political subdivision, or
147 constitutional county officer shall become effective until the
148 appropriate official or body designated under subsection (5) is
149 satisfied by opinion from such federal agency or agencies as may
150 be deemed necessary that the compensation deferred thereunder,
151 ~~and/or~~ the investment products purchased pursuant to the plan,
152 or both will not be included in the employee's taxable income
153 under federal or state law until it is actually received by such
154 employee under the terms of the plan, and that such compensation
155 will nonetheless be deemed compensation at the time of deferral
156 for the purposes of social security coverage, for the purposes
157 of the retirement system of the appropriate county,
158 municipality, political subdivision, or constitutional county
159 officer, and for any other retirement, pension, or benefit
160 program established by law.

161 (12) The Chief Financial Officer may adopt any rule
162 necessary to administer and implement this act with respect to
163 deferred compensation plans for ~~state~~ employees of governmental
164 entities that have adopted the state's plan.

165 Section 3. Subsections (2) and (3) of section 104.31,
166 Florida Statutes, are renumbered as subsections (3) and (4),
167 respectively, and a new subsection (2) is added to said section,
168 to read:

169 | 104.31 Political activities of state, county, and
 170 | municipal officers and employees.--

171 | (2) An employee of the state or any political subdivision
 172 | may not participate in any political campaign for an elective
 173 | office while on duty or within any period of time during which
 174 | the employee is expected to perform services for which he or she
 175 | receives compensation from the state or political subdivision.

176 | Section 4. Subsections (8), (9), (12), and (14) of section
 177 | 112.313, Florida Statutes, are amended to read:

178 | 112.313 Standards of conduct for public officers,
 179 | employees of agencies, and local government attorneys.--

180 | (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current
 181 | or former public officer, employee of an agency, or local
 182 | government attorney shall disclose or use information not
 183 | available to members of the general public and gained by reason
 184 | of his or her official position, except for information relating
 185 | exclusively to governmental practices, for his or her personal
 186 | gain or benefit or for the personal gain or benefit of any other
 187 | person or business entity.

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

190 | (a)1. It is the intent of the Legislature to implement by
 191 | statute the provisions of s. 8(e), Art. II of the State
 192 | Constitution relating to legislators, statewide elected
 193 | officers, appointed state officers, and designated public
 194 | employees.

195 | 2. As used in this paragraph:

196 | a. "Employee" means:

197 (I) Any person employed in the executive or legislative
198 branch of government holding a position in the Senior Management
199 Service as defined in s. 110.402 or any person holding a
200 position in the Selected Exempt Service as defined in s. 110.602
201 or any person having authority over policy or procurement
202 employed by the Department of the Lottery.

203 (II) The Auditor General, the director of the Office of
204 Program Policy Analysis and Government Accountability, the
205 Sergeant at Arms and Secretary of the Senate, and the Sergeant
206 at Arms and Clerk of the House of Representatives.

207 (III) The executive director of the Legislative Committee
208 on Intergovernmental Relations and the executive director and
209 deputy executive director of the Commission on Ethics.

210 (IV) An executive director, staff director, or deputy
211 staff director of each joint committee, standing committee, or
212 select committee of the Legislature; an executive director,
213 staff director, executive assistant, analyst, or attorney of the
214 Office of the President of the Senate, the Office of the Speaker
215 of the House of Representatives, the Senate Majority Party
216 Office, Senate Minority Party Office, House Majority Party
217 Office, or House Minority Party Office; or any person, hired on
218 a contractual basis, having the power normally conferred upon
219 such persons, by whatever title.

220 (V) The Chancellor and Vice Chancellors of the State
221 University System; the general counsel to the Board of Regents;
222 and the president, vice presidents, and deans of each state
223 university.

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

227 b. "Appointed state officer" means any member of an
228 appointive board, commission, committee, council, or authority
229 of the executive or legislative branch of state government whose
230 powers, jurisdiction, and authority are not solely advisory and
231 include the final determination or adjudication of any personal
232 or property rights, duties, or obligations, other than those
233 relative to its internal operations.

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

237 3. No member of the Legislature, appointed state officer,
238 or statewide elected officer shall personally represent another
239 person or entity for compensation before the government body or
240 agency of which the individual was an officer or member for a
241 period of 2 years following vacation of office. No member of the
242 Legislature shall personally represent another person or entity
243 for compensation during his or her term of office before any
244 state agency other than judicial tribunals or in settlement
245 negotiations after the filing of a lawsuit.

246 4. No agency employee shall personally represent another
247 person or entity for compensation before the agency with which
248 he or she was employed for a period of 2 years following
249 vacation of position, unless employed by another agency of state
250 government.

251 5. Any person violating this paragraph shall be subject to
 252 the penalties provided in s. 112.317 and a civil penalty of an
 253 amount equal to the compensation which the person receives for
 254 the prohibited conduct.

255 6. This paragraph is not applicable to:

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

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

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

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

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

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

273 (b) In addition to the provisions of this part which are
 274 applicable to legislators and legislative employees by virtue of
 275 their being public officers or employees, the conduct of members
 276 of the Legislature and legislative employees shall be governed
 277 by the ethical standards provided in the respective rules of the

278 Senate or House of Representatives which are not in conflict
279 herewith.

280 (12) EXEMPTION.--The requirements of subsections (3) and
281 (7) as they pertain to persons serving on advisory boards may be
282 waived in a particular instance by the body which appointed the
283 person to the advisory board, upon a full disclosure of the
284 transaction or relationship to the appointing body prior to the
285 waiver and an affirmative vote in favor of waiver by two-thirds
286 vote of that body. In instances in which appointment to the
287 advisory board is made by an individual, waiver may be effected,
288 after public hearing, by a determination by the appointing
289 person and full disclosure of the transaction or relationship by
290 the appointee to the appointing person. In addition, no person
291 shall be held in violation of subsection (3) or subsection (7)
292 if:

293 (a) Within a city or county the business is transacted
294 under a rotation system whereby the business transactions are
295 rotated among all qualified suppliers of the goods or services
296 within the city or county.

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

299 1. The official or the official's spouse or child has in
300 no way participated in the determination of the bid
301 specifications or the determination of the lowest or best
302 bidder;

303 2. The official or the official's spouse or child has in
304 no way used or attempted to use the official's influence to

305 persuade the agency or any personnel thereof to enter such a
 306 contract other than by the mere submission of the bid; and

307 3. The official, prior to or at the time of the submission
 308 of the bid, has filed a statement with the Commission on Ethics
 309 ~~Department of State~~, if the official is a state officer or
 310 employee, or with the supervisor of elections of the county in
 311 which the agency has its principal office, if the official is an
 312 officer or employee of a political subdivision, disclosing the
 313 official's interest, or the interest of the official's spouse or
 314 child, and the nature of the intended business.

315 (c) The purchase or sale is for legal advertising in a
 316 newspaper, for any utilities service, or for passage on a common
 317 carrier.

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

323 (e) The business entity involved is the only source of
 324 supply within the political subdivision of the officer or
 325 employee and there is full disclosure by the officer or employee
 326 of his or her interest in the business entity to the governing
 327 body of the political subdivision prior to the purchase, rental,
 328 sale, leasing, or other business being transacted.

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

332 (g) The fact that a county or municipal officer or member
333 of a public board or body, including a district school officer
334 or an officer of any district within a county, is a stockholder,
335 officer, or director of a bank will not bar such bank from
336 qualifying as a depository of funds coming under the
337 jurisdiction of any such public board or body, provided it
338 appears in the records of the agency that the governing body of
339 the agency has determined that such officer or member of a
340 public board or body has not favored such bank over other
341 qualified banks.

342 (h) The transaction is made pursuant to s. 1004.22 or s.
343 1004.23 and is specifically approved by the president and the
344 chair of the university board of trustees. The chair of the
345 university board of trustees shall submit to the Governor and
346 the Legislature by March 1 of each year a report of the
347 transactions approved pursuant to this paragraph during the
348 preceding year.

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

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

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

358 2. The officer or employee makes full disclosure of the
 359 relationship to the agency head or governing body prior to the
 360 transaction.

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

367 Section 5. Subsections (4), (5), and (6) of section
 368 112.3144, Florida Statutes, are renumbered as subsections (5),
 369 (6), and (7), respectively, paragraph (g) of present subsection
 370 (4) is amended, and a new subsection (4) is added to said
 371 section, to read:

372 112.3144 Full and public disclosure of financial
 373 interests.--

374 (4) (a) The reported amount of assets valued in excess of
 375 \$1,000 on forms prescribed pursuant to this section which the
 376 reporting individual holds jointly with another person shall be
 377 based on the reporting individual's legal percentage of
 378 ownership in the property, except that assets held jointly, with
 379 right of survivorship, shall be reported at 100 percent of the
 380 value of the asset. For purposes of this subsection, a reporting
 381 individual is deemed to own an interest in a partnership which
 382 corresponds to the reporting individual's interest in the
 383 capital or equity of the partnership.

384 (b)1. The reported amount of liabilities valued in excess
 385 of \$1,000 on forms prescribed pursuant to this section for which

386 the reporting individual is jointly and severally liable shall
387 be based upon the reporting individual's percentage of liability
388 rather than the total amount of the liability. Debt secured by
389 property owned by the reporting individual that is held jointly,
390 with right of survivorship, shall be reported at 100 percent of
391 the total amount owed.

392 2. A separate section of the form shall be created to
393 provide for the reporting of the amounts of joint and several
394 liability of the reporting individual not otherwise reported in
395 subparagraph 1.

396 ~~(5)-(4)~~ Forms for compliance with the full and public
397 disclosure requirements of s. 8, Art. II of the State
398 Constitution shall be created by the Commission on Ethics. The
399 commission shall give notice of disclosure deadlines and
400 delinquencies and distribute forms in the following manner:

401 (g) The notification requirements and fines of this
402 subsection do not apply to candidates or to the first filing
403 required of any person appointed to elective constitutional
404 office or other position required to file full and public
405 disclosure, unless the person's name is on the commission's
406 notification list and the person received notification from the
407 commission. The appointing official shall notify such newly
408 appointed person of the obligation to file full and public
409 disclosure by July 1. The notification requirements and fines of
410 this subsection do not apply to the final filing provided for in
411 subsection ~~(6)-(5)~~.

412 Section 6. Paragraph (c) of subsection (6) of section
413 112.3145, Florida Statutes, is amended to read:

414 112.3145 Disclosure of financial interests and clients
415 represented before agencies.--

416 (6) Forms for compliance with the disclosure requirements
417 of this section and a current list of persons subject to
418 disclosure shall be created by the commission and provided to
419 each supervisor of elections. The commission and each supervisor
420 of elections shall give notice of disclosure deadlines and
421 delinquencies and distribute forms in the following manner:

422 (c) Not later than 30 days after July 1 of each year, the
423 commission and each supervisor of elections shall determine
424 which persons required to file a statement of financial
425 interests in their respective offices have failed to do so and
426 shall send delinquency notices by certified mail, return receipt
427 requested, to such persons. Each notice shall state that a grace
428 period is in effect until September 1 of the current year; that
429 no investigative or disciplinary action based upon the
430 delinquency will be taken by the agency head or commission if
431 the statement is filed by September 1 of the current year; that,
432 if the statement is not filed by September 1 of the current
433 year, a fine of \$25 for each day late will be imposed, up to a
434 maximum penalty of \$1,500; for notices sent by a supervisor of
435 elections, that he or she is required by law to notify the
436 commission of the delinquency; and that, if upon the filing of a
437 sworn complaint the commission finds that the person has failed
438 to timely file the statement within 60 days after September 1 of
439 the current year, such person will also be subject to the
440 penalties provided in s. 112.317.

441 Section 7. Section 112.3147, Florida Statutes, is amended
442 to read:

443 112.3147 Forms.--

444 ~~(1)~~ All information required to be furnished by ss.
445 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
446 and by s. 8, Art. II of the State Constitution shall be on forms
447 prescribed by the Commission on Ethics. Persons shall attest
448 that the information disclosed on the forms and any attachments
449 is true, accurate, and complete, in all material aspects, to the
450 best of their knowledge.

451 ~~(2)(a) With respect to reporting assets valued in excess~~
452 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~
453 ~~reporting individual holds jointly with another person, the~~
454 ~~amount reported shall be based on the reporting individual's~~
455 ~~legal percentage of ownership in the property, except that~~
456 ~~assets held jointly with the reporting individual's spouse shall~~
457 ~~be reported at 100 percent of the value of the asset. For~~
458 ~~purposes of this subsection, a reporting individual is deemed to~~
459 ~~own an interest in a partnership which corresponds to the~~
460 ~~reporting individual's interest in the capital or equity of the~~
461 ~~partnership.~~

462 ~~(b)1. With respect to reporting liabilities valued in~~
463 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~
464 ~~which the reporting individual is jointly and severally liable,~~
465 ~~the amount reported shall be based upon the reporting~~
466 ~~individual's percentage of liability rather than the total~~
467 ~~amount of the liability, except, a joint and several liability~~
468 ~~with the reporting individual's spouse for a debt which relates~~

469 ~~to property owned by both as tenants by the entirety shall be~~
 470 ~~reported at 100 percent of the total amount owed.~~

471 ~~2. A separate section of the form shall be created to~~
 472 ~~provide for the reporting of the amounts of joint and several~~
 473 ~~liability of the reporting individual not otherwise reported in~~
 474 ~~paragraph (a).~~

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

477 112.3148 Reporting and prohibited receipt of gifts by
 478 individuals filing full or limited public disclosure of
 479 financial interests and by procurement employees.--

480 (6)

481 (d) No later than July 1 of each year, each reporting
 482 individual or procurement employee shall file a statement
 483 listing each gift having a value in excess of \$100 received by
 484 the reporting individual or procurement employee, either
 485 directly or indirectly, from a governmental entity or a direct-
 486 support organization specifically authorized by law to support a
 487 governmental entity. The statement shall list the name of the
 488 person providing the gift, a description of the gift, the date
 489 or dates on which the gift was given, and the value of the total
 490 gifts given during the calendar year for which the report is
 491 made. The reporting individual or procurement employee shall
 492 attach to such statement any report received by him or her in
 493 accordance with paragraph (c), which report shall become a
 494 public record when filed with the statement of the reporting
 495 individual or procurement employee. The reporting individual or
 496 procurement employee may explain any differences between the

497 | report of the reporting individual or procurement employee and
 498 | the attached reports. The annual report filed by a reporting
 499 | individual shall be filed with the financial disclosure
 500 | statement required by either s. 8, Art. II of the State
 501 | Constitution or s. 112.3145, as applicable to the reporting
 502 | individual. The annual report filed by a procurement employee
 503 | shall be filed with the Commission on Ethics. The report filed
 504 | by a reporting individual or procurement employee who left
 505 | office or employment during the calendar year covered by the
 506 | report shall be filed by July 1 of the year after leaving office
 507 | or employment at the same location as his or her final financial
 508 | disclosure statement or, in the case of a former procurement
 509 | employee, with the Commission on Ethics.

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

- 518 | 1. Gifts from relatives.
- 519 | 2. Gifts prohibited by subsection (4) or s. 112.313(4).
- 520 | 3. Gifts otherwise required to be disclosed by this
- 521 | section.

522 | (b) The statement shall include:

- 523 | 1. A description of the gift, the monetary value of the
- 524 | gift, the name and address of the person making the gift, and

525 the dates thereof. If any of these facts, other than the gift
526 description, are unknown or not applicable, the report shall so
527 state.

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

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

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

536 (e) Statements shall be filed not later than 5 p.m. of the
537 due date. However, any statement that is postmarked by the
538 United States Postal Service by midnight of the due date shall
539 be deemed to have been filed in a timely manner, and a
540 certificate of mailing obtained from and dated by the United
541 States Postal Service at the time of the mailing, or a receipt
542 from an established courier company which bears a date on or
543 before the due date, shall be proof of mailing in a timely
544 manner.

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

549 Section 9. Subsection (6) of section 112.3149, Florida
550 Statutes, is amended to read:

551 112.3149 Solicitation and disclosure of honoraria.--

552 (6) A reporting individual or procurement employee who
553 receives payment or provision of expenses related to any
554 honorarium event from a person who is prohibited by subsection
555 (4) from paying an honorarium to a reporting individual or
556 procurement employee shall publicly disclose on an annual
557 statement the name, address, and affiliation of the person
558 paying or providing the expenses; the amount of the honorarium
559 expenses; the date of the honorarium event; a description of the
560 expenses paid or provided on each day of the honorarium event;
561 and the total value of the expenses provided to the reporting
562 individual or procurement employee in connection with the
563 honorarium event. The annual statement of honorarium expenses
564 shall be filed by July 1 of each year for such expenses received
565 during the previous calendar year. The reporting individual or
566 procurement employee shall attach to the annual statement a copy
567 of each statement received by him or her in accordance with
568 subsection (5) regarding honorarium expenses paid or provided
569 during the calendar year for which the annual statement is
570 filed. Such attached statement shall become a public record upon
571 the filing of the annual report. The annual statement of a
572 reporting individual shall be filed with the financial
573 disclosure statement required by either s. 8, Art. II of the
574 State Constitution or s. 112.3145, as applicable to the
575 reporting individual. The annual statement of a procurement
576 employee shall be filed with the Commission on Ethics. The
577 statement filed by a reporting individual or procurement
578 employee who left office or employment during the calendar year
579 covered by the statement shall be filed by July 1 of the year

580 after leaving office or employment at the same location as his
581 or her final financial disclosure statement or, in the case of a
582 former procurement employee, with the Commission on Ethics.

583 Section 10. Subsections (1), (2), and (6) of section
584 112.317, Florida Statutes, are amended, and subsections (7) and
585 (8) are renumbered as subsections (6) and (7), to read:

586 112.317 Penalties.--

587 (1) Violation of any provision of this part, including,
588 but not limited to, any failure to file any disclosures required
589 by this part or violation of any standard of conduct imposed by
590 this part, or violation of any provision of s. 8, Art. II of the
591 State Constitution, in addition to any criminal penalty or other
592 civil penalty involved, shall, pursuant to applicable
593 constitutional and statutory procedures, constitute grounds for,
594 and may be punished by, one or more of the following:

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

- 596 1. Impeachment.
- 597 2. Removal from office.
- 598 3. Suspension from office.
- 599 4. Public censure and reprimand.
- 600 5. Forfeiture of no more than one-third salary per month
601 for no more than 12 months.
- 602 6. A civil penalty not to exceed \$10,000.
- 603 7. Restitution of any pecuniary benefits received because
604 of the violation committed. The commission may recommend that
605 the restitution penalty be paid to the agency of which the
606 public officer was a member or to the General Revenue Fund of
607 the state.

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

- 611 1. Dismissal from employment.
- 612 2. Suspension from employment for not more than 90 days
 613 without pay.
- 614 3. Demotion.
- 615 4. Reduction in salary level.
- 616 5. Forfeiture of no more than one-third salary per month
 617 for no more than 12 months.
- 618 6. A civil penalty not to exceed \$10,000.
- 619 7. Restitution of any pecuniary benefits received because
 620 of the violation committed. The commission may recommend that
 621 the restitution penalty be paid to the agency by which such
 622 public employee was employed or of which such officer was deemed
 623 to be an employee or to the General Revenue Fund of the state.
- 624 8. Public censure and reprimand.

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

- 628 1. Disqualification from being on the ballot.
- 629 2. Public censure.
- 630 3. Reprimand.
- 631 4. A civil penalty not to exceed \$10,000.

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

- 636 1. Public censure and reprimand.
- 637 2. A civil penalty not to exceed \$10,000.
- 638 3. Restitution of any pecuniary benefits received because
- 639 of the violation committed. The commission may recommend that
- 640 the restitution penalty be paid to the agency of which such
- 641 public officer was a member or deemed to be an employee or by
- 642 which such public employee was employed or to the General
- 643 Revenue Fund of the state.

644 (2) In any case in which the commission finds a violation

645 of this part or of s. 8, Art. II of the State Constitution and

646 the proper disciplinary official or body under s. 112.324

647 imposes ~~recommends~~ a civil penalty or restitution penalty, the

648 Attorney General shall bring a civil action to recover such

649 penalty. No defense may be raised in the civil action to enforce

650 the civil penalty or order of restitution that could have been

651 raised by judicial review of the administrative findings and

652 recommendations of the commission by certiorari to the district

653 court of appeal. The Attorney General shall be entitled to

654 collect any costs, attorney's fees, expert witness fees, or

655 other costs of collection incurred in bringing such action.

656 ~~(6) Any person who willfully discloses, or permits to be~~

657 ~~disclosed, his or her intention to file a complaint, the~~

658 ~~existence or contents of a complaint which has been filed with~~

659 ~~the commission, or any document, action, or proceeding in~~

660 ~~connection with a confidential preliminary investigation of the~~

661 ~~commission, before such complaint, document, action, or~~

662 ~~proceeding becomes a public record as provided herein commits a~~

663 ~~misdemeanor of the first degree, punishable as provided in s.~~
664 ~~775.082 or s. 775.083.~~

665 Section 11. Section 112.3185, Florida Statutes, is amended
666 to read:

667 112.3185 Additional standards for state agency employees
668 ~~Contractual services.--~~

669 (1) For the purposes of this section:

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

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

675 (2) No agency employee who participates through decision,
676 approval, disapproval, recommendation, preparation of any part
677 of a purchase request, influencing the content of any
678 specification or procurement standard, rendering of advice,
679 investigation, or auditing or in any other advisory capacity in
680 the procurement of contractual services shall become or be,
681 while an agency employee, the employee of a person contracting
682 with the agency by whom the employee is employed.

683 (3) No agency employee shall, after retirement or
684 termination, have or hold any employment or contractual
685 relationship with any business entity other than an agency in
686 connection with any contract in which the agency employee
687 participated personally and substantially through decision,
688 approval, disapproval, recommendation, rendering of advice, or
689 investigation while an officer or employee. When the agency
690 employee's position is eliminated and his or her duties are

691 performed by the business entity, this subsection shall not
692 prohibit him or her from an employment or contractual
693 relationship with the business entity if the employee's
694 participation in the contract during agency employment was
695 limited to recommendation, rendering of advice, or investigation
696 and if the agency head determines that the best interests of the
697 state shall be served thereby and provides written approval of
698 the employment or contractual relationship prior to the
699 employee's employment or contractual relationship.

700 (4) No agency employee shall, within 2 years after
701 retirement or termination, have or hold any employment or
702 contractual relationship with any business entity other than an
703 agency in connection with any contract for contractual services
704 which was within his or her responsibility while an employee. If
705 the agency employee's position is eliminated and his or her
706 duties are performed by the business entity, the provisions of
707 this subsection may be waived by the agency head if the agency
708 head determines that the best interests of the state shall be
709 served thereby and provides written approval of the employment
710 or contractual relationship prior to the employee's employment
711 or contractual relationship.

712 (5) The sum of money paid to a former agency employee
713 during the first year after the cessation of his or her
714 responsibilities, by the agency with whom he or she was
715 employed, for contractual services provided to the agency, shall
716 not exceed the annual salary received on the date of cessation
717 of his or her responsibilities. The provisions of this
718 subsection may be waived by the agency head for a particular

719 contract if the agency head determines that such waiver will
720 result in significant time or cost savings for the state.

721 (6) No agency employee shall, after retirement or
722 termination, represent or advise another person or entity,
723 except the state, in any matter in which the employee
724 participated personally in his or her official capacity through
725 decision, approval, disapproval, recommendation, rendering of
726 advice, investigation, or otherwise while an employee. The term
727 "matter" includes any judicial or other proceeding, application,
728 request for a ruling or other determination, contract, claim,
729 controversy, investigation, charge, accusation, arrest, or other
730 particular action involving a specific party or parties.

731 (7) No agency employee acting in an official capacity
732 shall directly or indirectly procure contractual services for
733 his or her own agency from any business entity of which a
734 relative is an officer, partner, director, or proprietor or in
735 which such officer or employee or his or her spouse or child, or
736 any combination of them, has a material interest.

737 (8)-(7) A violation of any provision of this section is
738 punishable in accordance with s. 112.317.

739 (9)-(8) This section is not applicable to any employee of
740 the Public Service Commission who was so employed on or before
741 December 31, 1994.

742 Section 12. Paragraph (f) of subsection (5) of section
743 112.3215, Florida Statutes, is amended to read:

744 112.3215 Lobbyists before the executive branch or the
745 Constitution Revision Commission; registration and reporting;
746 investigation by commission.--

747 (5)

748 (f) The commission shall provide by rule the grounds for
749 waiving the fine and the procedures ~~a procedure~~ by which a
750 lobbyist who fails to timely file a report shall be notified and
751 assessed fines and may appeal. The rule shall provide for the
752 following:

753 1. Upon determining that the report is late, the person
754 designated to review the timeliness of reports shall immediately
755 notify the lobbyist as to the failure to timely file the report
756 and that a fine is being assessed for each late day. The fine
757 shall be \$50 per day per report for each late day up to a
758 maximum of \$5,000 per late report.

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

762 a. When a report is actually received by the lobbyist
763 registration and reporting office.

764 b. When the report is postmarked.

765 c. When the certificate of mailing is dated.

766 d. When the receipt from an established courier company is
767 dated.

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

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

775 not timely filed. However, to receive the one-time fine waiver,
776 all reports for which the lobbyist is responsible must be filed
777 within 30 days after the notice that any reports have not been
778 timely filed is transmitted by the Lobbyist Registration Office.
779 A fine shall be assessed for any subsequent late-filed reports.

780 5. Any lobbyist may appeal or dispute a fine, based upon
781 unusual circumstances surrounding the failure to file on the
782 designated due date, and may request and shall be entitled to a
783 hearing before the commission, which shall have the authority to
784 waive the fine in whole or in part for good cause shown. Any
785 such request shall be made within 30 days after the notice of
786 payment due is transmitted by the Lobbyist Registration Office.
787 In such case, the lobbyist shall, within the 30-day period,
788 notify the person designated to review the timeliness of reports
789 in writing of his or her intention to bring the matter before
790 the commission.

791 6. The person designated to review the timeliness of
792 reports shall notify the commission of the failure of a lobbyist
793 to file a report after notice or of the failure of a lobbyist to
794 pay the fine imposed. The registration of a lobbyist who fails
795 to timely pay a fine is automatically suspended until the fine
796 is paid, unless an appeal of the fine is pending before the
797 commission. The commission shall provide a written suspension
798 notice to each lobbyist whose registration has been
799 automatically suspended.

800 7. Notwithstanding any provision of chapter 120, any fine
801 imposed under this subsection that is not waived by final order
802 of the commission and that remains unpaid more than 60 days

803 after the notice of payment due or more than 60 days after the
804 commission renders a final order on the lobbyist's appeal shall
805 be collected by the Department of Financial Services as a claim,
806 debt, or other obligation owed to the state, and the department
807 may assign the collection of such fine to a collection agent as
808 provided in s. 17.20.

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

811 112.322 Duties and powers of commission.--

812 (4) The commission has the power to subpoena, audit, and
813 investigate. The commission may subpoena witnesses and compel
814 their attendance and testimony, administer oaths and
815 affirmations, take evidence, and require by subpoena the
816 production of any books, papers, records, or other items
817 relevant to the performance of the duties of the commission or
818 to the exercise of its powers. The commission may delegate to
819 its investigators the authority to administer oaths and
820 affirmations. The commission may delegate the authority to issue
821 subpoenas to its chair, and may authorize its employees to serve
822 any subpoena issued under this section. In the case of a refusal
823 to obey a subpoena issued to any person, the commission may make
824 application to any circuit court of this state which shall have
825 jurisdiction to order the witness to appear before the
826 commission and to produce evidence, if so ordered, or to give
827 testimony touching on the matter in question. Failure to obey
828 the order may be punished by the court as contempt. Witnesses
829 shall be paid mileage and witnesses fees as authorized for
830 witnesses in civil cases, except that a witness who is required

831 to travel outside the county of his or her residence to testify
 832 shall be entitled to per diem and travel expenses at the same
 833 rate provided for state employees under s. 112.061, to be paid
 834 after the witness appears.

835 Section 14. Subsections (3) and (4) of section 914.21,
 836 Florida Statutes, are amended to read:

837 914.21 Definitions.--As used in ss. 914.22-914.24, the
 838 term:

839 (3) "Official investigation" means any investigation
 840 instituted by a law enforcement agency or prosecuting officer of
 841 the state or a political subdivision of the state or any
 842 investigation conducted by the Florida Commission on Ethics.

843 (4) "Official proceeding" means:

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

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

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

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

849 Section 15. This act shall take effect October 1, 2005.