

1 A bill to be entitled
2 An act relating to ethics; amending s. 104.31, F.S.;
3 prohibiting state or political subdivision employees from
4 participating in political campaigns during on-duty hours
5 or certain other hours; amending s. 112.313, F.S.;
6 applying the prohibition on disclosure or use of certain
7 information to former public officers, public employees,
8 and local government attorneys; providing an exception to
9 such prohibition; revising postemployment restrictions to
10 apply to other-personal-services temporary employees;
11 exempting certain agency employees from postemployment
12 restrictions; providing for certain disclosure statements
13 to be filed with the Commission on Ethics instead of the
14 Department of State; revising a prohibition on lobbying by
15 former local officers to preclude representation before
16 the government body or agency an officer has served;
17 providing applicability; amending s. 112.3144, F.S.;
18 providing for reporting of assets held by joint tenancy,
19 joint tenancy with right of survivorship, and partnership
20 and reporting of certain liabilities; amending s.
21 112.3145, F.S.; requiring the commission to send
22 delinquency notices with return receipt requested;
23 amending s. 112.3147, F.S.; requiring an attestation with
24 respect to information provided on required forms;
25 deleting a redundant provision; amending s. 112.3148,
26 F.S.; requiring gift disclosure forms of individuals who
27 left office or employment during the calendar year to be
28 filed by a date certain; allowing quarterly gift

29 disclosure forms to be considered timely filed if
30 postmarked on or before the due date; amending s.
31 112.3149, F.S.; requiring gift disclosure statements of
32 individuals who left office or employment during the
33 calendar year to be filed by a date certain; amending s.
34 112.317, F.S.; authorizing the commission to recommend
35 restitution be paid to the agency damaged by the violation
36 or to the General Revenue Fund; authorizing the Attorney
37 General to collect certain costs and fees incurred in
38 bringing certain actions; deleting a provision rendering a
39 breach of confidentiality of an ethics proceeding a
40 misdemeanor; amending s. 112.3185, F.S.; providing for
41 certain former agency employees to be employed by or have
42 a contractual relationship with certain business entities;
43 prohibiting a former agency employee from representing a
44 client before the employee's former agency in certain
45 matters; amending s. 112.3215, F.S.; revising the
46 commission's rulemaking authority regarding appeals of
47 certain fines; providing for automatic suspended
48 registration for lobbyists who fail to timely pay a
49 certain fine; providing an exception; requiring the
50 commission to provide written notice to any lobbyist whose
51 registration is automatically suspended; amending s.
52 112.322, F.S.; revising provisions relating to payment of
53 witnesses; amending s. 914.21, F.S.; revising definitions;
54 providing an effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
 58 Section 1. Subsections (2) and (3) of section 104.31,
 59 Florida Statutes, are renumbered as subsections (3) and (4),
 60 respectively, and a new subsection (2) is added to said section,
 61 to read:

62 104.31 Political activities of state, county, and
 63 municipal officers and employees.--

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

69 Section 2. Subsections (8), (9), (12), and (14) of section
 70 112.313, Florida Statutes, are amended to read:

71 112.313 Standards of conduct for public officers,
 72 employees of agencies, and local government attorneys.--

73 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current
 74 or former public officer, employee of an agency, or local
 75 government attorney shall disclose or use information not
 76 available to members of the general public and gained by reason
 77 of his or her official position, except for information relating
 78 exclusively to governmental practices, for his or her personal
 79 gain or benefit or for the personal gain or benefit of any other
 80 person or business entity.

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

83 (a)1. It is the intent of the Legislature to implement by
 84 statute the provisions of s. 8(e), Art. II of the State

85 Constitution relating to legislators, statewide elected
86 officers, appointed state officers, and designated public
87 employees.

88 2. As used in this paragraph:

89 a. "Employee" means:

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

96 (II) The Auditor General, the director of the Office of
97 Program Policy Analysis and Government Accountability, the
98 Sergeant at Arms and Secretary of the Senate, and the Sergeant
99 at Arms and Clerk of the House of Representatives.

100 (III) The executive director of the Legislative Committee
101 on Intergovernmental Relations and the executive director and
102 deputy executive director of the Commission on Ethics.

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

113 (V) The Chancellor and Vice Chancellors of the State
114 University System; the general counsel to the Board of Regents;
115 and the president, vice presidents, and deans of each state
116 university.

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

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

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

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

139 4. No agency employee shall personally represent another
140 person or entity for compensation before the agency with which

141 he or she was employed for a period of 2 years following
 142 vacation of position, unless employed by another agency of state
 143 government.

144 5. Any person violating this paragraph shall be subject to
 145 the penalties provided in s. 112.317 and a civil penalty of an
 146 amount equal to the compensation which the person receives for
 147 the prohibited conduct.

148 6. This paragraph is not applicable to:

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

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

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

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

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

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

166 (b) In addition to the provisions of this part which are
 167 applicable to legislators and legislative employees by virtue of
 168 their being public officers or employees, the conduct of members

169 of the Legislature and legislative employees shall be governed
170 by the ethical standards provided in the respective rules of the
171 Senate or House of Representatives which are not in conflict
172 herewith.

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

186 (a) Within a city or county the business is transacted
187 under a rotation system whereby the business transactions are
188 rotated among all qualified suppliers of the goods or services
189 within the city or county.

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

192 1. The official or the official's spouse or child has in
193 no way participated in the determination of the bid
194 specifications or the determination of the lowest or best
195 bidder;

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

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

208 (c) The purchase or sale is for legal advertising in a
209 newspaper, for any utilities service, or for passage on a common
210 carrier.

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

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

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

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

235 (h) The transaction is made pursuant to s. 1004.22 or s.
236 1004.23 and is specifically approved by the president and the
237 chair of the university board of trustees. The chair of the
238 university board of trustees shall submit to the Governor and
239 the Legislature by March 1 of each year a report of the
240 transactions approved pursuant to this paragraph during the
241 preceding year.

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

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

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

251 2. The officer or employee makes full disclosure of the
 252 relationship to the agency head or governing body prior to the
 253 transaction.

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

260 Section 3. Subsections (4), (5), and (6) of section
 261 112.3144, Florida Statutes, are renumbered as subsections (5),
 262 (6), and (7), respectively, paragraph (g) of present subsection
 263 (4) is amended, and a new subsection (4) is added to said
 264 section, to read:

265 112.3144 Full and public disclosure of financial
 266 interests.--

267 (4) (a) The reported amount of assets valued in excess of
 268 \$1,000 on forms prescribed pursuant to this section which the
 269 reporting individual holds jointly with another person shall be
 270 based on the reporting individual's legal percentage of
 271 ownership in the property, except that assets held jointly, with
 272 right of survivorship, shall be reported at 100 percent of the
 273 value of the asset. For purposes of this subsection, a reporting
 274 individual is deemed to own an interest in a partnership which
 275 corresponds to the reporting individual's interest in the
 276 capital or equity of the partnership.

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

285 2. A separate section of the form shall be created to
286 provide for the reporting of the amounts of joint and several
287 liability of the reporting individual not otherwise reported in
288 subparagraph 1.

289 (5)~~(4)~~ Forms for compliance with the full and public
290 disclosure requirements of s. 8, Art. II of the State
291 Constitution shall be created by the Commission on Ethics. The
292 commission shall give notice of disclosure deadlines and
293 delinquencies and distribute forms in the following manner:

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

305 Section 4. Paragraph (c) of subsection (6) of section
306 112.3145, Florida Statutes, is amended to read:

307 112.3145 Disclosure of financial interests and clients
308 represented before agencies.--

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

315 (c) Not later than 30 days after July 1 of each year, the
316 commission and each supervisor of elections shall determine
317 which persons required to file a statement of financial
318 interests in their respective offices have failed to do so and
319 shall send delinquency notices by certified mail, return receipt
320 requested, to such persons. Each notice shall state that a grace
321 period is in effect until September 1 of the current year; that
322 no investigative or disciplinary action based upon the
323 delinquency will be taken by the agency head or commission if
324 the statement is filed by September 1 of the current year; that,
325 if the statement is not filed by September 1 of the current
326 year, a fine of \$25 for each day late will be imposed, up to a
327 maximum penalty of \$1,500; for notices sent by a supervisor of
328 elections, that he or she is required by law to notify the
329 commission of the delinquency; and that, if upon the filing of a
330 sworn complaint the commission finds that the person has failed
331 to timely file the statement within 60 days after September 1 of

332 the current year, such person will also be subject to the
333 penalties provided in s. 112.317.

334 Section 5. Section 112.3147, Florida Statutes, is amended
335 to read:

336 112.3147 Forms.--

337 ~~(1)~~ All information required to be furnished by ss.
338 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
339 and by s. 8, Art. II of the State Constitution shall be on forms
340 prescribed by the Commission on Ethics. Persons shall attest
341 that the information disclosed on the forms and any attachments
342 is true, accurate, and complete, in all material aspects, to the
343 best of their knowledge.

344 ~~(2)(a) With respect to reporting assets valued in excess~~
345 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~
346 ~~reporting individual holds jointly with another person, the~~
347 ~~amount reported shall be based on the reporting individual's~~
348 ~~legal percentage of ownership in the property, except that~~
349 ~~assets held jointly with the reporting individual's spouse shall~~
350 ~~be reported at 100 percent of the value of the asset. For~~
351 ~~purposes of this subsection, a reporting individual is deemed to~~
352 ~~own an interest in a partnership which corresponds to the~~
353 ~~reporting individual's interest in the capital or equity of the~~
354 ~~partnership.~~

355 ~~(b)1. With respect to reporting liabilities valued in~~
356 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~
357 ~~which the reporting individual is jointly and severally liable,~~
358 ~~the amount reported shall be based upon the reporting~~
359 ~~individual's percentage of liability rather than the total~~

360 ~~amount of the liability, except, a joint and several liability~~
361 ~~with the reporting individual's spouse for a debt which relates~~
362 ~~to property owned by both as tenants by the entirety shall be~~
363 ~~reported at 100 percent of the total amount owed.~~

364 ~~2. A separate section of the form shall be created to~~
365 ~~provide for the reporting of the amounts of joint and several~~
366 ~~liability of the reporting individual not otherwise reported in~~
367 ~~paragraph (a).~~

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

370 112.3148 Reporting and prohibited receipt of gifts by
371 individuals filing full or limited public disclosure of
372 financial interests and by procurement employees.--

373 (6)

374 (d) No later than July 1 of each year, each reporting
375 individual or procurement employee shall file a statement
376 listing each gift having a value in excess of \$100 received by
377 the reporting individual or procurement employee, either
378 directly or indirectly, from a governmental entity or a direct-
379 support organization specifically authorized by law to support a
380 governmental entity. The statement shall list the name of the
381 person providing the gift, a description of the gift, the date
382 or dates on which the gift was given, and the value of the total
383 gifts given during the calendar year for which the report is
384 made. The reporting individual or procurement employee shall
385 attach to such statement any report received by him or her in
386 accordance with paragraph (c), which report shall become a
387 public record when filed with the statement of the reporting

388 individual or procurement employee. The reporting individual or
 389 procurement employee may explain any differences between the
 390 report of the reporting individual or procurement employee and
 391 the attached reports. The annual report filed by a reporting
 392 individual shall be filed with the financial disclosure
 393 statement required by either s. 8, Art. II of the State
 394 Constitution or s. 112.3145, as applicable to the reporting
 395 individual. The annual report filed by a procurement employee
 396 shall be filed with the Commission on Ethics. The report filed
 397 by a reporting individual or procurement employee who left
 398 office or employment during the calendar year covered by the
 399 report shall be filed by July 1 of the year after leaving office
 400 or employment at the same location as his or her final financial
 401 disclosure statement or, in the case of a former procurement
 402 employee, with the Commission on Ethics.

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

- 411 1. Gifts from relatives.
- 412 2. Gifts prohibited by subsection (4) or s. 112.313(4).
- 413 3. Gifts otherwise required to be disclosed by this
- 414 section.

415 (b) The statement shall include:

416 1. A description of the gift, the monetary value of the
417 gift, the name and address of the person making the gift, and
418 the dates thereof. If any of these facts, other than the gift
419 description, are unknown or not applicable, the report shall so
420 state.

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

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

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

429 (e) Statements shall be filed not later than 5 p.m. of the
430 due date. However, any statement that is postmarked by the
431 United States Postal Service by midnight of the due date shall
432 be deemed to have been filed in a timely manner, and a
433 certificate of mailing obtained from and dated by the United
434 States Postal Service at the time of the mailing, or a receipt
435 from an established courier company which bears a date on or
436 before the due date, shall be proof of mailing in a timely
437 manner.

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

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

444 112.3149 Solicitation and disclosure of honoraria.--
445 (6) A reporting individual or procurement employee who
446 receives payment or provision of expenses related to any
447 honorarium event from a person who is prohibited by subsection
448 (4) from paying an honorarium to a reporting individual or
449 procurement employee shall publicly disclose on an annual
450 statement the name, address, and affiliation of the person
451 paying or providing the expenses; the amount of the honorarium
452 expenses; the date of the honorarium event; a description of the
453 expenses paid or provided on each day of the honorarium event;
454 and the total value of the expenses provided to the reporting
455 individual or procurement employee in connection with the
456 honorarium event. The annual statement of honorarium expenses
457 shall be filed by July 1 of each year for such expenses received
458 during the previous calendar year. The reporting individual or
459 procurement employee shall attach to the annual statement a copy
460 of each statement received by him or her in accordance with
461 subsection (5) regarding honorarium expenses paid or provided
462 during the calendar year for which the annual statement is
463 filed. Such attached statement shall become a public record upon
464 the filing of the annual report. The annual statement of a
465 reporting individual shall be filed with the financial
466 disclosure statement required by either s. 8, Art. II of the
467 State Constitution or s. 112.3145, as applicable to the
468 reporting individual. The annual statement of a procurement
469 employee shall be filed with the Commission on Ethics. The
470 statement filed by a reporting individual or procurement
471 employee who left office or employment during the calendar year

472 covered by the statement shall be filed by July 1 of the year
473 after leaving office or employment at the same location as his
474 or her final financial disclosure statement or, in the case of a
475 former procurement employee, with the Commission on Ethics.

476 Section 8. Subsections (1), (2), and (6) of section
477 112.317, Florida Statutes, are amended, and subsections (7) and
478 (8) are renumbered as subsections (6) and (7), to read:

479 112.317 Penalties.--

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

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

- 489 1. Impeachment.
- 490 2. Removal from office.
- 491 3. Suspension from office.
- 492 4. Public censure and reprimand.
- 493 5. Forfeiture of no more than one-third salary per month
494 for no more than 12 months.
- 495 6. A civil penalty not to exceed \$10,000.
- 496 7. Restitution of any pecuniary benefits received because
497 of the violation committed. The commission may recommend that
498 the restitution penalty be paid to the agency of which the

499 public officer was a member or to the General Revenue Fund of
 500 the state.

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

- 504 1. Dismissal from employment.
- 505 2. Suspension from employment for not more than 90 days
 506 without pay.
- 507 3. Demotion.
- 508 4. Reduction in salary level.
- 509 5. Forfeiture of no more than one-third salary per month
 510 for no more than 12 months.
- 511 6. A civil penalty not to exceed \$10,000.
- 512 7. Restitution of any pecuniary benefits received because
 513 of the violation committed. The commission may recommend that
 514 the restitution penalty be paid to the agency by which such
 515 public employee was employed or of which such officer was deemed
 516 to be an employee or to the General Revenue Fund of the state.
- 517 8. Public censure and reprimand.

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

- 521 1. Disqualification from being on the ballot.
- 522 2. Public censure.
- 523 3. Reprimand.
- 524 4. A civil penalty not to exceed \$10,000.

525 (d) In the case of a former public officer or employee who
 526 has violated a provision applicable to former officers or

527 employees or whose violation occurred prior to such officer's or
 528 employee's leaving public office or employment:

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

537 (2) In any case in which the commission finds a violation
 538 of this part or of s. 8, Art. II of the State Constitution and
 539 the proper disciplinary official or body under s. 112.324
 540 imposes recommends a civil penalty or restitution penalty, the
 541 Attorney General shall bring a civil action to recover such
 542 penalty. No defense may be raised in the civil action to enforce
 543 the civil penalty or order of restitution that could have been
 544 raised by judicial review of the administrative findings and
 545 recommendations of the commission by certiorari to the district
 546 court of appeal. The Attorney General shall be entitled to
 547 collect any costs, attorney's fees, expert witness fees, or
 548 other costs of collection incurred in bringing such action.

549 ~~(6) Any person who willfully discloses, or permits to be~~
 550 ~~disclosed, his or her intention to file a complaint, the~~
 551 ~~existence or contents of a complaint which has been filed with~~
 552 ~~the commission, or any document, action, or proceeding in~~
 553 ~~connection with a confidential preliminary investigation of the~~
 554 ~~commission, before such complaint, document, action, or~~

555 ~~proceeding becomes a public record as provided herein commits a~~
556 ~~misdemeanor of the first degree, punishable as provided in s.~~
557 ~~775.082 or s. 775.083.~~

558 Section 9. Section 112.3185, Florida Statutes, is amended
559 to read:

560 112.3185 Additional standards for state agency employees
561 ~~Contractual services.~~--

562 (1) For the purposes of this section:

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

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

568 (2) No agency employee who participates through decision,
569 approval, disapproval, recommendation, preparation of any part
570 of a purchase request, influencing the content of any
571 specification or procurement standard, rendering of advice,
572 investigation, or auditing or in any other advisory capacity in
573 the procurement of contractual services shall become or be,
574 while an agency employee, the employee of a person contracting
575 with the agency by whom the employee is employed.

576 (3) No agency employee shall, after retirement or
577 termination, have or hold any employment or contractual
578 relationship with any business entity other than an agency in
579 connection with any contract in which the agency employee
580 participated personally and substantially through decision,
581 approval, disapproval, recommendation, rendering of advice, or
582 investigation while an officer or employee. When the agency

583 employee's position is eliminated and his or her duties are
584 performed by the business entity, this subsection shall not
585 prohibit him or her from an employment or contractual
586 relationship with the business entity if the employee's
587 participation in the contract during agency employment was
588 limited to recommendation, rendering of advice, or investigation
589 and if the agency head determines that the best interests of the
590 state shall be served thereby and provides written approval of
591 the employment or contractual relationship prior to the
592 employee's employment or contractual relationship.

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

605 (5) The sum of money paid to a former agency employee
606 during the first year after the cessation of his or her
607 responsibilities, by the agency with whom he or she was
608 employed, for contractual services provided to the agency, shall
609 not exceed the annual salary received on the date of cessation
610 of his or her responsibilities. The provisions of this

611 subsection may be waived by the agency head for a particular
612 contract if the agency head determines that such waiver will
613 result in significant time or cost savings for the state.

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

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

630 (8)-(7) A violation of any provision of this section is
631 punishable in accordance with s. 112.317.

632 (9)-(8) This section is not applicable to any employee of
633 the Public Service Commission who was so employed on or before
634 December 31, 1994.

635 Section 10. Paragraph (f) of subsection (5) of section
636 112.3215, Florida Statutes, is amended to read:

637 | 112.3215 Lobbyists before the executive branch or the
 638 | Constitution Revision Commission; registration and reporting;
 639 | investigation by commission.--

640 | (5)

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

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

652 | 2. Upon receipt of the report, the person designated to
 653 | review the timeliness of reports shall determine the amount of
 654 | the fine due based upon the earliest of the following:

655 | a. When a report is actually received by the lobbyist
 656 | registration and reporting office.

657 | b. When the report is postmarked.

658 | c. When the certificate of mailing is dated.

659 | d. When the receipt from an established courier company is
 660 | dated.

661 | 3. Such fine shall be paid within 30 days after the notice
 662 | of payment due is transmitted by the Lobbyist Registration
 663 | Office, unless appeal is made to the commission. The moneys

664 shall be deposited into the Executive Branch Lobby Registration
665 Trust Fund.

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

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

684 6. The person designated to review the timeliness of
685 reports shall notify the commission of the failure of a lobbyist
686 to file a report after notice or of the failure of a lobbyist to
687 pay the fine imposed. The registration of a lobbyist who fails
688 to timely pay a fine is automatically suspended until the fine
689 is paid, unless an appeal of the fine is pending before the
690 commission. The commission shall provide a written suspension

691 notice to each lobbyist whose registration has been
692 automatically suspended.

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

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

704 112.322 Duties and powers of commission.--

705 (4) The commission has the power to subpoena, audit, and
706 investigate. The commission may subpoena witnesses and compel
707 their attendance and testimony, administer oaths and
708 affirmations, take evidence, and require by subpoena the
709 production of any books, papers, records, or other items
710 relevant to the performance of the duties of the commission or
711 to the exercise of its powers. The commission may delegate to
712 its investigators the authority to administer oaths and
713 affirmations. The commission may delegate the authority to issue
714 subpoenas to its chair, and may authorize its employees to serve
715 any subpoena issued under this section. In the case of a refusal
716 to obey a subpoena issued to any person, the commission may make
717 application to any circuit court of this state which shall have
718 jurisdiction to order the witness to appear before the

719 | commission and to produce evidence, if so ordered, or to give
 720 | testimony touching on the matter in question. Failure to obey
 721 | the order may be punished by the court as contempt. Witnesses
 722 | shall be paid mileage and witnesses fees as authorized for
 723 | witnesses in civil cases, except that a witness who is required
 724 | to travel outside the county of his or her residence to testify
 725 | shall be entitled to per diem and travel expenses at the same
 726 | rate provided for state employees under s. 112.061, to be paid
 727 | after the witness appears.

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

730 | 914.21 Definitions.--As used in ss. 914.22-914.24, the
 731 | term:

732 | (3) "Official investigation" means any investigation
 733 | instituted by a law enforcement agency or prosecuting officer of
 734 | the state or a political subdivision of the state or any
 735 | investigation conducted by the Florida Commission on Ethics.

736 | (4) "Official proceeding" means:

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

738 | (b) A proceeding before the Legislature; ~~or~~

739 | (c) A proceeding before a federal agency which is
 740 | authorized by law; or

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

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