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HB 1377, Engrossed 3

2005 Legislature

1 A bill to be entitled
2 An act relating to ethics for public officers and
3 employees; amending s. 104.31, F.S.; prohibiting employees
4 of the state and its political subdivisions from
5 participating in a political campaign; amending s.
6 112.313, F.S.; prohibiting certain disclosures by a former
7 public officer, agency employee, or local government
8 attorney; redefining the term "employee" to include
9 certain other-personal-services employees for certain
10 postemployment activities; providing an exemption from
11 provisions prohibiting conflicts in employment to a person
12 who, after serving on an advisory board, files a statement
13 with the Commission on Ethics relating to a bid or
14 submission; amending s. 112.3144, F.S.; specifying how
15 assets valued in excess of \$1,000 are to be reported by a
16 reporting individual; amending s. 112.3145, F.S.;
17 requiring that a delinquency notice be sent to certain
18 officeholders by certified mail, return receipt requested;
19 revising certain filing deadlines; amending s. 112.3147,
20 F.S.; deleting certain provisions relating to reporting
21 the value of assets; amending s. 112.3148, F.S.; providing
22 requirements for persons who have left office or
23 employment as to filing a report relating to gifts;
24 amending s. 112.3149, F.S.; requiring that a report of
25 honoraria by a person who left office or employment be
26 filed by a specified date; amending s. 112.317, F.S.;
27 authorizing the commission to recommend a restitution
28 penalty be paid to the agency or the General Revenue Fund;

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

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29 | authorizing the Attorney General to recover costs for
30 | filing suit to collect penalties and fines; deleting
31 | provisions imposing a penalty for the disclosure of
32 | information concerning a complaint or an investigation;
33 | amending 112.3185, F.S.; providing additional standards
34 | for state agency employees relating to procurement of
35 | goods and services by a state agency; authorizing an
36 | employee whose position was eliminated to engage in
37 | certain contractual activities; prohibiting former
38 | employees from certain specified activities; amending s.
39 | 112.321, F.S.; prohibiting an individual who qualifies as
40 | a lobbyist from serving on the commission; prohibiting a
41 | member of the commission from lobbying any state or local
42 | governmental entity; providing exceptions for individuals
43 | who are members of the commission on the effective date of
44 | the act until the expiration of their current terms;
45 | amending s. 112.3215, F.S.; requiring the commission to
46 | adopt a rule detailing the grounds for waiving a fine and
47 | the procedures when a lobbyist fails to timely file his or
48 | her report; requiring automatic suspension of a lobbyist's
49 | registration if the fine is not timely paid; requiring the
50 | commission to provide written notice to any lobbyist whose
51 | registration is automatically suspended; amending s.
52 | 112.322, F.S.; authorizing travel and per diem expenses
53 | for certain witnesses; amending s. 914.21, F.S.;
54 | redefining the terms "official investigation" and
55 | "official proceeding," for purposes of provisions relating

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56 to tampering with witnesses, to include an investigation
 57 by the Commission on Ethics; providing an effective date.

58

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

60

61 Section 1. Present subsections (2) and (3) of section
 62 104.31, Florida Statutes, are redesignated as subsections (3)
 63 and (4), respectively, and a new subsection (2) is added to that
 64 section, to read:

65 104.31 Political activities of state, county, and
 66 municipal officers and employees.--

67 (2) An employee of the state or any political subdivision
 68 may not participate in any political campaign for an elective
 69 office while on duty.

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

73 112.313 Standards of conduct for public officers,
 74 employees of agencies, and local government attorneys.--

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

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

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

90 2. As used in this paragraph:

91 a. "Employee" means:

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

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

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

105 (IV) An executive director, staff director, or deputy
 106 staff director of each joint committee, standing committee, or
 107 select committee of the Legislature; an executive director,
 108 staff director, executive assistant, analyst, or attorney of the
 109 Office of the President of the Senate, the Office of the Speaker
 110 of the House of Representatives, the Senate Majority Party

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111 Office, Senate Minority Party Office, House Majority Party
112 Office, or House Minority Party Office; or any person, hired on
113 a contractual basis, having the power normally conferred upon
114 such persons, by whatever title.

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

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

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

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

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

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139 state agency other than judicial tribunals or in settlement
 140 negotiations after the filing of a lawsuit.

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

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

150 6. This paragraph is not applicable to:

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

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

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

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

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

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

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

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

183 1. The official or the official's spouse or child has in
184 no way participated in the determination of the bid
185 specifications or the determination of the lowest or best
186 bidder;

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

191 3. The official, prior to or at the time of the submission
192 of the bid, has filed a statement with the Commission on Ethics

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193 ~~Department of State~~, if the official is a state officer or
 194 employee, or with the supervisor of elections of the county in
 195 which the agency has its principal office, if the official is an
 196 officer or employee of a political subdivision, disclosing the
 197 official's interest, or the interest of the official's spouse or
 198 child, and the nature of the intended business.

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

205 Section 3. Present subsections (4), (5), and (6) of
 206 section 112.3144, Florida Statutes, are redesignated as
 207 subsections (5), (6), and (7), respectively, and a new
 208 subsection (4) is added to that section, to read:

209 112.3144 Full and public disclosure of financial
 210 interests.--

211 (4) (a) With respect to reporting assets valued in excess
 212 of \$1,000 on forms prescribed under this section which the
 213 reporting individual holds jointly with another person, the
 214 amount reported shall be based on the reporting individual's
 215 legal percentage of ownership in the property. However, assets
 216 that are held jointly, with right of survivorship, must be
 217 reported at 100 percent of the value of the asset. For purposes
 218 of this subsection, a reporting individual is deemed to own a
 219 percentage of a partnership which is equal to the reporting

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220 individual's interest in the capital or equity of the
 221 partnership.

222 (b)1. With respect to reporting liabilities valued in
 223 excess of \$1,000 on forms prescribed under this section for
 224 which the reporting individual is jointly and severally liable,
 225 the amount reported shall be based on the reporting individual's
 226 percentage of liability rather than the total amount of the
 227 liability. However, liability for a debt that is secured by
 228 property owned by the reporting individual but that is held
 229 jointly, with right of survivorship, must be reported at 100
 230 percent of the total amount owed.

231 2. A separate section of the form shall be created to
 232 provide for the reporting of the amounts of joint and several
 233 liability of the reporting individual not otherwise reported in
 234 subparagraph 1.

235 Section 4. Paragraph (c) of subsection (6) of section
 236 112.3145, Florida Statutes, is amended to read:

237 112.3145 Disclosure of financial interests and clients
 238 represented before agencies.--

239 (6) Forms for compliance with the disclosure requirements
 240 of this section and a current list of persons subject to
 241 disclosure shall be created by the commission and provided to
 242 each supervisor of elections. The commission and each supervisor
 243 of elections shall give notice of disclosure deadlines and
 244 delinquencies and distribute forms in the following manner:

245 (c) Not later than 30 days after July 1 of each year, the
 246 commission and each supervisor of elections shall determine
 247 which persons required to file a statement of financial

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248 interests in their respective offices have failed to do so and
 249 shall send delinquency notices by certified mail, return receipt
 250 requested, to these ~~such~~ persons. Each notice shall state that
 251 a grace period is in effect until September 1 of the current
 252 year; that no investigative or disciplinary action based upon
 253 the delinquency will be taken by the agency head or commission
 254 if the statement is filed by September 1 of the current year;
 255 that, if the statement is not filed by September 1 of the
 256 current year, a fine of \$25 for each day late will be imposed,
 257 up to a maximum penalty of \$1,500; for notices sent by a
 258 supervisor of elections, that he or she is required by law to
 259 notify the commission of the delinquency; and that, if upon the
 260 filing of a sworn complaint the commission finds that the person
 261 has failed to timely file the statement within 60 days after
 262 September 1 of the current year, such person will also be
 263 subject to the penalties provided in s. 112.317.

264 Section 5. Section 112.3147, Florida Statutes, is amended
 265 to read:

266 112.3147 Forms.--

267 ~~(1)~~ All information required to be furnished by ss.
 268 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
 269 and by s. 8, Art. II of the State Constitution shall be on forms
 270 prescribed by the Commission on Ethics.

271 ~~(2)(a) With respect to reporting assets valued in excess~~
 272 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~
 273 ~~reporting individual holds jointly with another person, the~~
 274 ~~amount reported shall be based on the reporting individual's~~
 275 ~~legal percentage of ownership in the property, except that~~

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276 ~~assets held jointly with the reporting individual's spouse shall~~
277 ~~be reported at 100 percent of the value of the asset. For~~
278 ~~purposes of this subsection, a reporting individual is deemed to~~
279 ~~own an interest in a partnership which corresponds to the~~
280 ~~reporting individual's interest in the capital or equity of the~~
281 ~~partnership.~~

282 ~~(b)1. With respect to reporting liabilities valued in~~
283 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~
284 ~~which the reporting individual is jointly and severally liable,~~
285 ~~the amount reported shall be based upon the reporting~~
286 ~~individual's percentage of liability rather than the total~~
287 ~~amount of the liability, except, a joint and several liability~~
288 ~~with the reporting individual's spouse for a debt which relates~~
289 ~~to property owned by both as tenants by the entirety shall be~~
290 ~~reported at 100 percent of the total amount owed.~~

291 ~~2. A separate section of the form shall be created to~~
292 ~~provide for the reporting of the amounts of joint and several~~
293 ~~liability of the reporting individual not otherwise reported in~~
294 ~~paragraph (a).~~

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

297 112.3148 Reporting and prohibited receipt of gifts by
298 individuals filing full or limited public disclosure of
299 financial interests and by procurement employees.--

300 (6)

301 (d) No later than July 1 of each year, each reporting
302 individual or procurement employee shall file a statement
303 listing each gift having a value in excess of \$100 received by

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304 the reporting individual or procurement employee, either
 305 directly or indirectly, from a governmental entity or a direct-
 306 support organization specifically authorized by law to support a
 307 governmental entity. The statement shall list the name of the
 308 person providing the gift, a description of the gift, the date
 309 or dates on which the gift was given, and the value of the total
 310 gifts given during the calendar year for which the report is
 311 made. The reporting individual or procurement employee shall
 312 attach to the ~~such~~ statement any report received by him or her
 313 in accordance with paragraph (c), which report shall become a
 314 public record when filed with the statement of the reporting
 315 individual or procurement employee. The reporting individual or
 316 procurement employee may explain any differences between the
 317 report of the reporting individual or procurement employee and
 318 the attached reports. The annual report filed by a reporting
 319 individual shall be filed with the financial disclosure
 320 statement required by either s. 8, Art. II of the State
 321 Constitution or s. 112.3145, as applicable to the reporting
 322 individual. The annual report filed by a procurement employee
 323 shall be filed with the Commission on Ethics. The report filed
 324 by a reporting individual or procurement employee who left
 325 office or employment during the calendar year covered by the
 326 report shall be filed by July 1 of the year after leaving office
 327 or employment at the same location as his or her final financial
 328 disclosure statement or, in the case of a former procurement
 329 employee, with the Commission on Ethics.

330 (8) (a) Each reporting individual or procurement employee
 331 shall file a statement with the Commission on Ethics not later

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332 than ~~on~~ the last day of each calendar quarter, for the previous
 333 calendar quarter, containing a list of gifts which he or she
 334 believes to be in excess of \$100 in value, if any, accepted by
 335 him or her, for which compensation was not provided by the donee
 336 to the donor within 90 days of receipt of the gift to reduce the
 337 value to \$100 or less, except the following:

- 338 1. Gifts from relatives.
- 339 2. Gifts prohibited by subsection (4) or s. 112.313(4).
- 340 3. Gifts otherwise required to be disclosed by this
 341 section.

342 (b) The statement shall include:

343 1. A description of the gift, the monetary value of the
 344 gift, the name and address of the person making the gift, and
 345 the dates thereof. If any of these facts, other than the gift
 346 description, are unknown or not applicable, the report shall so
 347 state.

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

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

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

356 (e) Statements must be filed not later than 5 p.m. of the
 357 due date. However, any statement that is postmarked by the
 358 United States Postal Service by midnight of the due date is
 359 deemed to have been filed in a timely manner, and a certificate

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360 of mailing obtained from and dated by the United States Postal
361 Service at the time of the mailing, or a receipt from an
362 established courier company which bears a date on or before the
363 due date, constitutes proof of mailing in a timely manner.

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

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

370 112.3149 Solicitation and disclosure of honoraria.--

371 (6) A reporting individual or procurement employee who
372 receives payment or provision of expenses related to any
373 honorarium event from a person who is prohibited by subsection
374 (4) from paying an honorarium to a reporting individual or
375 procurement employee shall publicly disclose on an annual
376 statement the name, address, and affiliation of the person
377 paying or providing the expenses; the amount of the honorarium
378 expenses; the date of the honorarium event; a description of the
379 expenses paid or provided on each day of the honorarium event;
380 and the total value of the expenses provided to the reporting
381 individual or procurement employee in connection with the
382 honorarium event. The annual statement of honorarium expenses
383 shall be filed by July 1 of each year for those ~~such~~ expenses
384 received during the previous calendar year. The reporting
385 individual or procurement employee shall attach to the annual
386 statement a copy of each statement received by him or her in
387 accordance with subsection (5) regarding honorarium expenses

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388 | paid or provided during the calendar year for which the annual
 389 | statement is filed. The ~~Such~~ attached statement shall become a
 390 | public record upon the filing of the annual report. The annual
 391 | statement of a reporting individual shall be filed with the
 392 | financial disclosure statement required by either s. 8, Art. II
 393 | of the State Constitution or s. 112.3145, as applicable to the
 394 | reporting individual. The annual statement of a procurement
 395 | employee shall be filed with the Commission on Ethics. The
 396 | statement filed by a reporting individual or procurement
 397 | employee who left office or employment during the calendar year
 398 | covered by the statement shall be filed by July 1 of the year
 399 | after leaving office or employment at the same location as his
 400 | or her final financial disclosure statement or, in the case of a
 401 | former procurement employee, with the Commission on Ethics.

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

404 | 112.317 Penalties.--

405 | (1) Violation of any provision of this part, including,
 406 | but not limited to, any failure to file any disclosures required
 407 | by this part or violation of any standard of conduct imposed by
 408 | this part, or violation of any provision of s. 8, Art. II of the
 409 | State Constitution, in addition to any criminal penalty or other
 410 | civil penalty involved, shall, under ~~pursuant to~~ applicable
 411 | constitutional and statutory procedures, constitute grounds for,
 412 | and may be punished by, one or more of the following:

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

- 414 | 1. Impeachment.
- 415 | 2. Removal from office.

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- 416 3. Suspension from office.
- 417 4. Public censure and reprimand.
- 418 5. Forfeiture of no more than one-third salary per month
- 419 for no more than 12 months.
- 420 6. A civil penalty not to exceed \$10,000.
- 421 7. Restitution of any pecuniary benefits received because
- 422 of the violation committed. The commission may recommend that
- 423 the restitution penalty be paid to the agency of which the
- 424 public officer was a member or to the General Revenue Fund.
- 425 (b) In the case of an employee or a person designated as a
- 426 public officer by this part who otherwise would be deemed to be
- 427 an employee:
- 428 1. Dismissal from employment.
- 429 2. Suspension from employment for not more than 90 days
- 430 without pay.
- 431 3. Demotion.
- 432 4. Reduction in salary level.
- 433 5. Forfeiture of no more than one-third salary per month
- 434 for no more than 12 months.
- 435 6. A civil penalty not to exceed \$10,000.
- 436 7. Restitution of any pecuniary benefits received because
- 437 of the violation committed. The commission may recommend that
- 438 the restitution penalty be paid to the agency by which the
- 439 public employee was employed, or of which the officer was deemed
- 440 to be an employee, or to the General Revenue Fund.
- 441 8. Public censure and reprimand.

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

- 445 1. Disqualification from being on the ballot.
- 446 2. Public censure.
- 447 3. Reprimand.
- 448 4. A civil penalty not to exceed \$10,000.

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

- 453 1. Public censure and reprimand.
- 454 2. A civil penalty not to exceed \$10,000.
- 455 3. Restitution of any pecuniary benefits received because
 456 of the violation committed. The commission may recommend that
 457 the restitution penalty be paid to the agency of the public
 458 officer or employee or to the General Revenue Fund.

459 (2) In any case in which the commission finds a violation
 460 of this part or of s. 8, Art. II of the State Constitution and
 461 the proper disciplinary official or body under s. 112.324
 462 imposes ~~recommends~~ a civil penalty or restitution penalty, the
 463 Attorney General shall bring a civil action to recover such
 464 penalty. No defense may be raised in the civil action to
 465 enforce the civil penalty or order of restitution that could
 466 have been raised by judicial review of the administrative
 467 findings and recommendations of the commission by certiorari to
 468 the district court of appeal. The Attorney General shall collect

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469 any costs, attorney's fees, expert witness fees, or other costs
 470 of collection incurred in bringing the action.

471 ~~(6) Any person who willfully discloses, or permits to be~~
 472 ~~disclosed, his or her intention to file a complaint, the~~
 473 ~~existence or contents of a complaint which has been filed with~~
 474 ~~the commission, or any document, action, or proceeding in~~
 475 ~~connection with a confidential preliminary investigation of the~~
 476 ~~commission, before such complaint, document, action, or~~
 477 ~~proceeding becomes a public record as provided herein commits a~~
 478 ~~misdemeanor of the first degree, punishable as provided in s.~~
 479 ~~775.082 or s. 775.083.~~

480 (6)~~(7)~~ In any case in which the commission finds probable
 481 cause to believe that a complainant has committed perjury in
 482 regard to any document filed with, or any testimony given
 483 before, the commission, it shall refer such evidence to the
 484 appropriate law enforcement agency for prosecution and taxation
 485 of costs.

486 (7)~~(8)~~ In any case in which the commission determines that
 487 a person has filed a complaint against a public officer or
 488 employee with a malicious intent to injure the reputation of
 489 such officer or employee by filing the complaint with knowledge
 490 that the complaint contains one or more false allegations or
 491 with reckless disregard for whether the complaint contains false
 492 allegations of fact material to a violation of this part, the
 493 complainant shall be liable for costs plus reasonable attorney's
 494 fees incurred in the defense of the person complained against,
 495 including the costs and reasonable attorney's fees incurred in
 496 proving entitlement to and the amount of costs and fees. If the

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497 | complainant fails to pay such costs and fees voluntarily within
 498 | 30 days following such finding by the commission, the commission
 499 | shall forward such information to the Department of Legal
 500 | Affairs, which shall bring a civil action in a court of
 501 | competent jurisdiction to recover the amount of such costs and
 502 | fees awarded by the commission.

503 | Section 9. Section 112.3185, Florida Statutes, is amended
 504 | to read:

505 | 112.3185 Additional standards for state agency employees
 506 | ~~Contractual services~~.--

507 | (1) For the purposes of this section:

508 | (a) "Contractual services" shall be defined as set forth
 509 | in chapter 287.

510 | (b) "Agency" means any state officer, department, board,
 511 | commission, or council of the executive or judicial branch of
 512 | state government and includes the Public Service Commission.

513 | (2) No agency employee who participates through decision,
 514 | approval, disapproval, recommendation, preparation of any part
 515 | of a purchase request, influencing the content of any
 516 | specification or procurement standard, rendering of advice,
 517 | investigation, or auditing or in any other advisory capacity in
 518 | the procurement of contractual services shall become or be,
 519 | while an agency employee, the employee of a person contracting
 520 | with the agency by whom the employee is employed.

521 | (3) No agency employee shall, after retirement or
 522 | termination, have or hold any employment or contractual
 523 | relationship with any business entity other than an agency in
 524 | connection with any contract in which the agency employee

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525 participated personally and substantially through decision,
 526 approval, disapproval, recommendation, rendering of advice, or
 527 investigation while an officer or employee. When the agency
 528 employee's position is eliminated and his or her duties are
 529 performed by the business entity, this subsection does not
 530 prohibit him or her from employment or contractual relationship
 531 with the business entity if the employee's participation in the
 532 contract was limited to recommendation, rendering of advice, or
 533 investigation and if the agency head determines that the best
 534 interests of the state will be served thereby and provides prior
 535 written approval for the particular employee.

536 (4) No agency employee shall, within 2 years after
 537 retirement or termination, have or hold any employment or
 538 contractual relationship with any business entity other than an
 539 agency in connection with any contract for contractual services
 540 which was within his or her responsibility while an employee. If
 541 the agency employee's position is eliminated and his or her
 542 duties are performed by the business entity, the provisions of
 543 this subsection may be waived by the agency head through prior
 544 written approval for a particular employee if the agency head
 545 determines that the best interests of the state will be served
 546 thereby.

547 (5) The sum of money paid to a former agency employee
 548 during the first year after the cessation of his or her
 549 responsibilities, by the agency with whom he or she was
 550 employed, for contractual services provided to the agency, shall
 551 not exceed the annual salary received on the date of cessation
 552 of his or her responsibilities. ~~The provisions of This~~

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

556 (6) No agency employee shall, after retirement or
 557 termination, represent or advise another person or entity,
 558 except the state, in any matter in which the employee
 559 participated personally in his or her official capacity through
 560 decision, approval, disapproval, recommendation, rendering of
 561 advice, investigation, or otherwise while an employee. The term
 562 "matter" includes any judicial or other proceeding, application,
 563 request for a ruling, or other determination, contract, claim,
 564 controversy, investigation, charge, accusation, arrest, or other
 565 particular action involving a specific party or parties.

566 (7)-(6) No agency employee acting in an official capacity
 567 shall directly or indirectly procure contractual services for
 568 his or her own agency from any business entity of which a
 569 relative is an officer, partner, director, or proprietor or in
 570 which the ~~such~~ officer or employee or his or her spouse or
 571 child, or any combination of them, has a material interest.

572 (8)-(7) A violation of any provision of this section is
 573 punishable in accordance with s. 112.317.

574 (9)-(8) This section is not applicable to any employee of
 575 the Public Service Commission who was so employed on or before
 576 December 31, 1994.

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

579 112.321 Membership, terms; travel expenses; staff.--

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580 (1) The commission shall be composed of nine members. Five
581 of these members shall be appointed by the Governor, no more
582 than three of whom shall be from the same political party,
583 subject to confirmation by the Senate. One member appointed by
584 the Governor shall be a former city or county official and may
585 be a former member of a local planning or zoning board which has
586 only advisory duties. Two members shall be appointed by the
587 Speaker of the House of Representatives, and two members shall
588 be appointed by the President of the Senate. Neither the Speaker
589 of the House of Representatives nor the President of the Senate
590 shall appoint more than one member from the same political
591 party. Of the nine members of the Commission, no more than five
592 members shall be from the same political party at any one time.
593 No member may hold any public employment. An individual who
594 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or
595 pursuant to any local government charter or ordinance may not
596 serve as a member of the commission, except that this
597 prohibition does not apply to an individual who is a member of
598 the commission on July 1, 2005, until the expiration of his or
599 her current term. A member of the commission may not lobby any
600 state or local governmental entity as provided in s. 11.045 or
601 s. 112.3215 or as provided by any local government charter or
602 ordinance, except that this prohibition does not apply to an
603 individual who is a member of the commission on July 1, 2005,
604 until the expiration of his or her current term. All members
605 shall serve 2-year terms. No member shall serve more than two
606 full terms in succession. Any member of the commission may be
607 removed for cause by majority vote of the Governor, the

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608 | President of the Senate, the Speaker of the House of
 609 | Representatives, and the Chief Justice of the Supreme Court.

610 | Section 11. Paragraph (f) of subsection (5) of section
 611 | 112.3215, Florida Statutes, is amended to read:

612 | 112.3215 Lobbyists before the executive branch or the
 613 | Constitution Revision Commission; registration and reporting;
 614 | investigation by commission.--

615 | (5)

616 | (f) The commission shall provide by rule the grounds for
 617 | waiving a fine and the procedures ~~a procedure~~ by which a
 618 | lobbyist who fails to timely file a report shall be notified and
 619 | assessed fines and the procedure for appealing the fines. The
 620 | rule shall provide for the following:

621 | 1. Upon determining that the report is late, the person
 622 | designated to review the timeliness of reports shall immediately
 623 | notify the lobbyist as to the failure to timely file the report
 624 | and that a fine is being assessed for each late day. The fine
 625 | shall be \$50 per day per report for each late day up to a
 626 | maximum of \$5,000 per late report.

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

630 | a. When a report is actually received by the lobbyist
 631 | registration and reporting office.

632 | b. When the report is postmarked.

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

634 | d. When the receipt from an established courier company is
 635 | dated.

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

641 4. A fine shall not be assessed against a lobbyist the
642 first time any reports for which the lobbyist is responsible are
643 not timely filed. However, to receive the one-time fine waiver,
644 all reports for which the lobbyist is responsible must be filed
645 within 30 days after the notice that any reports have not been
646 timely filed is transmitted by the Lobbyist Registration Office.
647 A fine shall be assessed for any subsequent late-filed reports.

648 5. Any lobbyist may appeal or dispute a fine, based upon
649 unusual circumstances surrounding the failure to file on the
650 designated due date, and may request and shall be entitled to a
651 hearing before the commission, which shall have the authority to
652 waive the fine in whole or in part for good cause shown. Any
653 ~~such~~ request shall be made within 30 days after the notice of
654 payment due is transmitted by the Lobbyist Registration Office.
655 In such case, the lobbyist shall, within the 30-day period,
656 notify the person designated to review the timeliness of reports
657 in writing of his or her intention to bring the matter before
658 the commission.

659 6. The person designated to review the timeliness of
660 reports shall notify the commission of the failure of a lobbyist
661 to file a report after notice or of the failure of a lobbyist to
662 pay the fine imposed. The registration of a lobbyist who fails
663 to timely pay a fine is automatically suspended until the fine

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664 is paid, unless an appeal of the fine is pending before the
665 commission. The commission shall provide a written suspension
666 notice to each lobbyist whose registration has been
667 automatically suspended.

668 7. Notwithstanding any provision of chapter 120, any fine
669 imposed under this subsection that is not waived by final order
670 of the commission and that remains unpaid more than 60 days
671 after the notice of payment due or more than 60 days after the
672 commission renders a final order on the lobbyist's appeal shall
673 be collected by the Department of Financial Services as a claim,
674 debt, or other obligation owed to the state, and the department
675 may assign the collection of such fine to a collection agent as
676 provided in s. 17.20.

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

679 112.322 Duties and powers of commission.--

680 (4) The commission has the power to subpoena, audit, and
681 investigate. The commission may subpoena witnesses and compel
682 their attendance and testimony, administer oaths and
683 affirmations, take evidence, and require by subpoena the
684 production of any books, papers, records, or other items
685 relevant to the performance of the duties of the commission or
686 to the exercise of its powers. The commission may delegate to
687 its investigators the authority to administer oaths and
688 affirmations. The commission may delegate the authority to issue
689 subpoenas to its chair, and may authorize its employees to serve
690 any subpoena issued under this section. In the case of a
691 refusal to obey a subpoena issued to any person, the commission

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692 | may make application to any circuit court of this state which
 693 | shall have jurisdiction to order the witness to appear before
 694 | the commission and to produce evidence, if so ordered, or to
 695 | give testimony touching on the matter in question. Failure to
 696 | obey the order may be punished by the court as contempt.
 697 | Witnesses shall be paid mileage and witnesses fees as authorized
 698 | for witnesses in civil cases, except that a witness who is
 699 | required to travel outside the county of his or her residence to
 700 | testify is entitled to per diem and travel expenses at the same
 701 | rate provided for state employees under s. 112.061, to be paid
 702 | after the witness appears.

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

705 | 914.21 Definitions.--As used in ss. 914.22-914.24, the
 706 | term:

707 | (3) "Official investigation" means any investigation
 708 | instituted by a law enforcement agency or prosecuting officer of
 709 | the state or a political subdivision of the state or the
 710 | Commission on Ethics.

711 | (4) "Official proceeding" means:

- 712 | (a) A proceeding before a judge or court or a grand jury;
- 713 | (b) A proceeding before the Legislature; or
- 714 | (c) A proceeding before a federal agency which is
 715 | authorized by law.

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

717 | Section 14. This act shall take effect October 1, 2005.