

Bill No. SB 1944

Barcode 722288

CHAMBER ACTION

Senate

House

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11 The Committee on Ethics and Elections (Sebesta) recommended
12 the following amendment:

Senate Amendment

15 On page 26, line 3, through page 33, line 5,

17 and insert:

18 Section 12. Section 112.324, Florida Statutes, is
19 amended to read:

20 112.324 Procedures on complaints of violations; public
21 records and meeting exemptions.--

22 (1) Upon a written complaint executed on a form
23 prescribed by the commission and signed under oath or
24 affirmation by any person, the commission shall investigate
25 any alleged violation of this part or any other alleged breach
26 of the public trust within the jurisdiction of the commission
27 as provided in s. 8(f), Art. II of the State Constitution in
28 accordance with procedures set forth herein

29
30 Within 5 days after receipt of a complaint by the commission,
31 a copy shall be transmitted to the alleged violator.

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1 (2) The complaint and records relating to the
2 complaint or to any preliminary investigation held by the
3 commission or its agents or by a Commission on Ethics and
4 Public Trust established by any county defined in s.
5 125.011(1), are confidential and exempt from the provisions of
6 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
7 and any proceeding conducted by the commission or a Commission
8 on Ethics and Public Trust, pursuant to a complaint or
9 preliminary investigation, is exempt from the provisions of s.
10 286.011, s. 24(b), Art. I of the State Constitution, and s.
11 120.525, until the complaint is dismissed as legally
12 insufficient, until the alleged violator requests in writing
13 that the ~~such~~ records and proceedings be made public, or until
14 the commission or a Commission on Ethics and Public Trust
15 determines, based on such investigation, whether probable
16 cause exists to believe that a violation has occurred. In no
17 event shall a complaint under this part against a candidate in
18 any general, special, or primary election be filed or any
19 intention of filing such a complaint be disclosed on the day
20 of any such election or within the 5 days immediately
21 preceding the date of the election.

22 (3) A preliminary investigation shall be undertaken by
23 the commission of each legally sufficient complaint over which
24 the commission has jurisdiction to determine whether there is
25 probable cause to believe that a violation has occurred. If,
26 upon completion of the preliminary investigation, the
27 commission finds no probable cause to believe that this part
28 has been violated or that any other breach of the public trust
29 has been committed, the commission shall dismiss the complaint
30 with the issuance of a public report to the complainant and
31 the alleged violator, stating with particularity its reasons

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1 for dismissal of the complaint. At that time, the complaint
 2 and all materials relating to the complaint shall become a
 3 matter of public record. If the commission finds from the
 4 preliminary investigation probable cause to believe that this
 5 part has been violated or that any other breach of the public
 6 trust has been committed, it shall so notify the complainant
 7 and the alleged violator in writing. The ~~Such~~ notification
 8 and all documents made or received in the disposition of the
 9 complaint shall then become public records. Upon request
 10 submitted to the commission in writing, any person who the
 11 commission finds probable cause to believe has violated any
 12 provision of this part or has committed any other breach of
 13 the public trust shall be entitled to a public hearing. The
 14 ~~Such~~ person shall be deemed to have waived the right to a
 15 public hearing if the request is not received within 14 days
 16 following the mailing of the probable cause notification
 17 required by this subsection. However, the commission may on
 18 its own motion, require a public hearing, may conduct such
 19 further investigation as it deems necessary, and may enter
 20 into ~~such~~ stipulations and settlements as it finds to be just
 21 and in the best interest of the state. The commission is
 22 without jurisdiction to, and no respondent may voluntarily or
 23 involuntarily, enter into a stipulation or settlement which
 24 imposes any penalty, including, but not limited to, a sanction
 25 or admonition or any other penalty contained in s. 112.317.
 26 Penalties shall be imposed only by the appropriate
 27 disciplinary authority as designated in this section.

28 (4) If, in cases pertaining to members of the
 29 Legislature, upon completion of a full and final investigation
 30 by the commission, the commission finds that there has been a
 31 violation of this part or of any provision of s. 8, Art. II of

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1 the State Constitution, the commission shall forward a copy of
2 the complaint and its findings by certified mail to the
3 President of the Senate or the Speaker of the House of
4 Representatives, whichever is applicable, who shall refer the
5 complaint to the appropriate committee for investigation and
6 action which shall be governed by the rules of its respective
7 house. It shall be the duty of the committee to report its
8 final action upon the complaint to the commission within 90
9 days of the date of transmittal to the respective house. Upon
10 request of the committee, the commission shall submit a
11 recommendation as to what penalty, if any, should be imposed.
12 In the case of a member of the Legislature, the house in which
13 the member serves has ~~shall have~~ the power to invoke the
14 penalty provisions of this part.

15 (5) If, in cases pertaining to complaints against
16 impeachable officers, upon completion of a full and final
17 investigation by the commission, the commission finds that
18 there has been a violation of this part or ~~of any provision~~ of
19 s. 8, Art. II of the State Constitution, and the commission
20 finds that the violation may constitute grounds for
21 impeachment, the commission shall forward a copy of the
22 complaint and its findings by certified mail to the Speaker of
23 the House of Representatives, who shall refer the complaint to
24 the appropriate committee for investigation and action which
25 shall be governed by the rules of the House of
26 Representatives. It shall be the duty of the committee to
27 report its final action upon the complaint to the commission
28 within 90 days of the date of transmittal.

29 (6) If the commission finds that there has been a
30 violation of this part or ~~of any provision~~ of s. 8, Art. II of
31 the State Constitution by an impeachable officer other than

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1 the Governor, and the commission recommends public censure and
 2 reprimand, forfeiture of a portion of the officer's salary, a
 3 civil penalty, or restitution, the commission shall report its
 4 findings and recommendation of disciplinary action to the
 5 Governor, who has ~~shall have~~ the power to invoke the penalty
 6 provisions of this part.

7 (7) If the commission finds that there has been a
 8 violation of this part or of ~~any provision of~~ s. 8, Art. II of
 9 the State Constitution by the Governor, and the commission
 10 recommends public censure and reprimand, forfeiture of a
 11 portion of the Governor's salary, a civil penalty, or
 12 restitution, the commission shall report its findings and
 13 recommendation of disciplinary action to the Attorney General,
 14 who has ~~shall have~~ the power to invoke the penalty provisions
 15 of this part.

16 (8) If, in cases pertaining to complaints other than
 17 complaints against impeachable officers or members of the
 18 Legislature, upon completion of a full and final investigation
 19 by the commission, the commission finds that there has been a
 20 violation of this part or of s. 8, Art. II of the State
 21 Constitution, it is ~~shall be~~ the duty of the commission to
 22 report its findings and recommend appropriate action to the
 23 proper disciplinary official or body as follows, and the ~~such~~
 24 official or body has ~~shall have~~ the power to invoke the
 25 penalty provisions of this part, including the power to order
 26 the appropriate elections official to remove a candidate from
 27 the ballot for a violation of s. 112.3145 or s. 8(a) and (i),
 28 Art. II of the State Constitution:

29 (a) The President of the Senate and the Speaker of the
 30 House of Representatives, jointly, in any case concerning the
 31 Public Counsel, members of the Public Service Commission,

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1 members of the Public Service Commission Nominating Council,
 2 the Auditor General, the director of the Office of Program
 3 Policy Analysis and Government Accountability, or members of
 4 the Legislative Committee on Intergovernmental Relations.

5 (b) The Supreme Court, in any case concerning an
 6 employee of the judicial branch.

7 (c) The President of the Senate, in any case
 8 concerning an employee of the Senate; the Speaker of the House
 9 of Representatives, in any case concerning an employee of the
 10 House of Representatives; or the President and the Speaker,
 11 jointly, in any case concerning an employee of a committee of
 12 the Legislature whose members are appointed solely by the
 13 President and the Speaker or in any case concerning an
 14 employee of the Public Counsel, Public Service Commission,
 15 Auditor General, Office of Program Policy Analysis and
 16 Government Accountability, or Legislative Committee on
 17 Intergovernmental Relations.

18 (d) Except as otherwise provided by this part, the
 19 Governor, in the case of any other public officer, public
 20 employee, former public officer or public employee, candidate,
 21 or former candidate.

22 (e) The President of the Senate or the Speaker of the
 23 House of Representatives, whichever is applicable, in any case
 24 concerning a former member of the Legislature who has violated
 25 a provision applicable to former members or whose violation
 26 occurred while a member of the Legislature.

27 (9) In addition to reporting its findings to the
 28 proper disciplinary body or official, the commission shall
 29 report these findings to the state attorney or any other
 30 appropriate official or agency having authority to initiate
 31 prosecution when violation of criminal law is indicated.

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1 (10) Notwithstanding the foregoing procedures of this
2 section, a sworn complaint against any member or employee of
3 the Commission on Ethics for violation of this part or of s.
4 8, Art. II of the State Constitution shall be filed with the
5 President of the Senate and the Speaker of the House of
6 Representatives. Each presiding officer shall, after
7 determining that there are sufficient grounds for review,
8 appoint three members of their respective bodies to a special
9 joint committee who shall investigate the complaint. The
10 members shall elect a chair from among their number. If the
11 special joint committee finds insufficient evidence to
12 establish probable cause to believe a violation of this part
13 or of s. 8, Art. II of the State Constitution has occurred, it
14 shall dismiss the complaint. If, upon completion of its
15 preliminary investigation, the committee finds sufficient
16 evidence to establish probable cause to believe a violation
17 has occurred, the chair thereof shall transmit such findings
18 to the Governor who shall convene a meeting of the Governor,
19 the President of the Senate, the Speaker of the House of
20 Representatives, and the Chief Justice of the Supreme Court to
21 take such final action on the complaint as they shall deem
22 appropriate, consistent with the penalty provisions of this
23 part. Upon request of a majority of the Governor, the
24 President of the Senate, the Speaker of the House of
25 Representatives, and the Chief Justice of the Supreme Court,
26 the special joint committee shall submit a recommendation as
27 to what penalty, if any, should be imposed.

28 (11) Notwithstanding the provisions of subsections
29 (1)-(8), the commission may, at its discretion, dismiss any
30 complaint at any stage of disposition should it determine that
31 the public interest would not be served by proceeding further,

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1 in which case the commission shall issue a public report
2 stating with particularity its reasons for the dismissal.

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