

1 to filing a report relating to gifts; amending
2 s. 112.3149, F.S.; requiring that a report of
3 honoraria by a person who left office or
4 employment be filed by a specified date;
5 amending s. 112.317, F.S.; authorizing the
6 commission to recommend a restitution penalty
7 be paid to the agency or the General Revenue
8 Fund; authorizing the Attorney General to
9 recover costs for filing suit to collect
10 penalties and fines; deleting provisions
11 imposing a penalty for the disclosure of
12 information concerning a complaint or an
13 investigation; amending 112.3185, F.S.;
14 providing additional standards for state agency
15 employees relating to procurement of goods and
16 services by a state agency; authorizing an
17 employee whose position was eliminated to
18 engage in certain contractual activities;
19 prohibiting former employees from certain
20 specified activities; amending s. 112.3215,
21 F.S.; requiring the commission to adopt a rule
22 detailing the grounds for waiving a fine and
23 the procedures when a lobbyist fails to timely
24 file his or her report; requiring automatic
25 suspension of a lobbyist's registration if the
26 fine is not timely paid; amending s. 112.322,
27 F.S.; authorizing travel and per diem expenses
28 for certain witnesses; amending s. 112.324,
29 F.S.; providing procedures for the commission
30 to handle complaints of violations; amending s.
31 914.21, F.S.; redefining the terms "official

1 investigation" and "official proceeding," for
2 purposes of provisions relating to tampering
3 with witnesses, to include an investigation by
4 the Commission on Ethics; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Present subsections (2) and (3) of section
10 104.31, Florida Statutes, are redesignated as subsections (3)
11 and (4), respectively, and a new subsection (2) is added to
12 that section, to read:

13 104.31 Political activities of state, county, and
14 municipal officers and employees.--

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

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

23 112.313 Standards of conduct for public officers,
24 employees of agencies, and local government attorneys.--

25 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No
26 current or former public officer, employee of an agency, or
27 local government attorney shall disclose or use information
28 not available to members of the general public and gained by
29 reason of his or her official position, except for information
30 relating exclusively to governmental practices, for his or her
31

1 personal gain or benefit or for the personal gain or benefit
2 of any other person or business entity.

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

5 (a)1. It is the intent of the Legislature to implement
6 by statute the provisions of s. 8(e), Art. II of the State
7 Constitution relating to legislators, statewide elected
8 officers, appointed state officers, and designated public
9 employees.

10 2. As used in this paragraph:

11 a. "Employee" means:

12 (I) Any person employed in the executive or
13 legislative branch of government holding a position in the
14 Senior Management Service as defined in s. 110.402 or any
15 person holding a position in the Selected Exempt Service as
16 defined in s. 110.602 or any person having authority over
17 policy or procurement employed by the Department of the
18 Lottery.

19 (II) The Auditor General, the director of the Office
20 of Program Policy Analysis and Government Accountability, the
21 Sergeant at Arms and Secretary of the Senate, and the Sergeant
22 at Arms and Clerk of the House of Representatives.

23 (III) The executive director of the Legislative
24 Committee on Intergovernmental Relations and the executive
25 director and deputy executive director of the Commission on
26 Ethics.

27 (IV) An executive director, staff director, or deputy
28 staff director of each joint committee, standing committee, or
29 select committee of the Legislature; an executive director,
30 staff director, executive assistant, analyst, or attorney of
31 the Office of the President of the Senate, the Office of the

1 Speaker of the House of Representatives, the Senate Majority
2 Party Office, Senate Minority Party Office, House Majority
3 Party Office, or House Minority Party Office; or any person,
4 hired on a contractual basis, having the power normally
5 conferred upon such persons, by whatever title.

6 (V) The Chancellor and Vice Chancellors of the State
7 University System; the general counsel to the Board of
8 Regents; and the president, vice presidents, and deans of each
9 state university.

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

13 b. "Appointed state officer" means any member of an
14 appointive board, commission, committee, council, or authority
15 of the executive or legislative branch of state government
16 whose powers, jurisdiction, and authority are not solely
17 advisory and include the final determination or adjudication
18 of any personal or property rights, duties, or obligations,
19 other than those relative to its internal operations.

20 c. "State agency" means an entity of the legislative,
21 executive, or judicial branch of state government over which
22 the Legislature exercises plenary budgetary and statutory
23 control.

24 3. No member of the Legislature, appointed state
25 officer, or statewide elected officer shall personally
26 represent another person or entity for compensation before the
27 government body or agency of which the individual was an
28 officer or member for a period of 2 years following vacation
29 of office. No member of the Legislature shall personally
30 represent another person or entity for compensation during his
31 or her term of office before any state agency other than

1 judicial tribunals or in settlement negotiations after the
2 filing of a lawsuit.

3 4. No agency employee shall personally represent
4 another person or entity for compensation before the agency
5 with which he or she was employed for a period of 2 years
6 following vacation of position, unless employed by another
7 agency of state government.

8 5. Any person violating this paragraph shall be
9 subject to the penalties provided in s. 112.317 and a civil
10 penalty of an amount equal to the compensation which the
11 person receives for the prohibited conduct.

12 6. This paragraph is not applicable to:

13 a. A person employed by the Legislature or other
14 agency before ~~prior to~~ July 1, 1989;

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

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

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

24 e. Any appointed state officer whose term of office
25 began before January 1, 1995, unless reappointed to that
26 office on or after January 1, 1995; or-

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

30 (12) EXEMPTION.--The requirements of subsections (3)
31 and (7) as they pertain to persons serving on advisory boards

1 | may be waived in a particular instance by the body which
2 | appointed the person to the advisory board, upon a full
3 | disclosure of the transaction or relationship to the
4 | appointing body prior to the waiver and an affirmative vote in
5 | favor of waiver by two-thirds vote of that body. In instances
6 | in which appointment to the advisory board is made by an
7 | individual, waiver may be effected, after public hearing, by a
8 | determination by the appointing person and full disclosure of
9 | the transaction or relationship by the appointee to the
10 | appointing person. In addition, no person shall be held in
11 | violation of subsection (3) or subsection (7) if:

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

14 | 1. The official or the official's spouse or child has
15 | in no way participated in the determination of the bid
16 | specifications or the determination of the lowest or best
17 | bidder;

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

22 | 3. The official, prior to or at the time of the
23 | submission of the bid, has filed a statement with the
24 | Commission on Ethics ~~Department of State~~, if the official is a
25 | state officer or employee, or with the supervisor of elections
26 | of the county in which the agency has its principal office, if
27 | the official is an officer or employee of a political
28 | subdivision, disclosing the official's interest, or the
29 | interest of the official's spouse or child, and the nature of
30 | the intended business.

31 |

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

8 Section 3. Present subsections (4), (5), and (6) of
9 section 112.3144, Florida Statutes, are redesignated as
10 subsections (5), (6), and (7), respectively, and a new
11 subsection (4) is added to that section, to read:

12 112.3144 Full and public disclosure of financial
13 interests.--

14 (4)(a) With respect to reporting assets valued in
15 excess of \$1,000 on forms prescribed under this section which
16 the reporting individual holds jointly with another person,
17 the amount reported shall be based on the reporting
18 individual's legal percentage of ownership in the property.
19 However, assets that are held jointly, with right of
20 survivorship, must be reported at 100 percent of the value of
21 the asset. For purposes of this subsection, a reporting
22 individual is deemed to own a percentage of a partnership
23 which is equal to the reporting individual's interest in the
24 capital or equity of the partnership.

25 (b)1. With respect to reporting liabilities valued in
26 excess of \$1,000 on forms prescribed under this section for
27 which the reporting individual is jointly and severally
28 liable, the amount reported shall be based on the reporting
29 individual's percentage of liability rather than the total
30 amount of the liability. However, liability for a debt that is
31 secured by property owned by the reporting individual but that

1 is held jointly, with right of survivorship, must be reported
2 at 100 percent of the total amount owed.

3 2. A separate section of the form shall be created to
4 provide for the reporting of the amounts of joint and several
5 liability of the reporting individual not otherwise reported
6 in subparagraph 1.

7 Section 4. Paragraphs (c), (d), and (f) of subsection
8 (6) of section 112.3145, Florida Statutes, are amended to
9 read:

10 112.3145 Disclosure of financial interests and clients
11 represented before agencies.--

12 (6) Forms for compliance with the disclosure
13 requirements of this section and a current list of persons
14 subject to disclosure shall be created by the commission and
15 provided to each supervisor of elections. The commission and
16 each supervisor of elections shall give notice of disclosure
17 deadlines and delinquencies and distribute forms in the
18 following manner:

19 (c) Not later than 30 days after July 1 of each year,
20 the commission and each supervisor of elections shall
21 determine which persons required to file a statement of
22 financial interests in their respective offices have failed to
23 do so and shall send delinquency notices by certified mail,
24 return receipt requested, to these ~~such~~ persons. Each notice
25 shall state that a grace period is in effect until September 1
26 of the current year; that no investigative or disciplinary
27 action based upon the delinquency will be taken by the agency
28 head or commission if the statement is filed by September 1 of
29 the current year; that, if the statement is not filed by
30 September 1 of the current year, a fine of \$25 for each day
31 late will be imposed, up to a maximum penalty of ~~\$300~~ \$1,500;

1 for notices sent by a supervisor of elections, that he or she
2 is required by law to notify the commission of the
3 delinquency; and that, if upon the filing of a sworn complaint
4 the commission finds that the person has failed to timely file
5 the statement within 12 ~~60~~ days after September 1 of the
6 current year, such person will also be subject to the
7 penalties provided in s. 112.317.

8 (d) No later than October 1 ~~November 15~~ of each year,
9 the supervisor of elections in each county shall certify to
10 the commission a list of the names and addresses of, and the
11 offices or positions held by, all persons who have failed to
12 timely file the required statements of financial interests.
13 The certification must include the earliest of the dates
14 described in subparagraph (f)1. The certification shall be on
15 a form prescribed by the commission and shall indicate whether
16 the supervisor of elections has provided the disclosure forms
17 and notice as required by this subsection to all persons named
18 on the delinquency list.

19 (f) Any person who is required to file a statement of
20 financial interests and whose name is on the commission's
21 mailing list but who fails to timely file is assessed a fine
22 of \$25 per day for each day late up to a maximum of \$300
23 ~~\$1,500~~; however, this ~~\$300~~ \$1,500 limitation on automatic
24 fines does not limit the civil penalty that may be imposed if
25 the statement is filed more than 12 ~~60~~ days after the deadline
26 and a complaint is filed, as provided in s. 112.324. The
27 commission must provide by rule the grounds for waiving the
28 fine and procedures by which each person whose name is on the
29 mailing list and who is determined to have not filed in a
30 timely manner will be notified of assessed fines and may
31

1 appeal. The rule must provide for and make specific the
2 following:
3 1. The amount of the fine due is based upon the
4 earliest of the following:
5 a. When a statement is actually received by the
6 office.
7 b. When the statement is postmarked.
8 c. When the certificate of mailing is dated.
9 d. When the receipt from an established courier
10 company is dated.
11 2. For a specified state employee or a state officer,
12 upon receipt of the disclosure statement by the commission or
13 upon accrual of the maximum penalty, whichever occurs first,
14 and for a local officer upon receipt by the commission of the
15 certification from the local officer's supervisor of elections
16 under ~~pursuant to~~ paragraph (d), the commission shall
17 determine the amount of the fine which is due and shall notify
18 the delinquent person. The notice must include an explanation
19 of the appeal procedure under subparagraph 3. The fine must be
20 paid within 30 days after the notice of payment due is
21 transmitted, unless appeal is made to the commission under
22 ~~pursuant to~~ subparagraph 3. The moneys are to be deposited
23 into the General Revenue Fund.
24 3. Any reporting person may appeal or dispute a fine,
25 based upon a failure of notice of the requirements to file the
26 annual disclosure ~~unusual circumstances surrounding the~~
27 ~~failure to file on the designated due date~~, and may request
28 and is entitled to a hearing before the commission, which may
29 waive the fine in whole or in part based upon a failure of
30 adequate notice ~~for good cause shown~~. Any such request must be
31 made within 30 days after the notice of payment due is

1 transmitted. In such a case, the reporting person must, within
2 the 30-day period, notify the person designated to review the
3 timeliness of reports in writing of his or her intention to
4 bring the matter before the commission.

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

7 112.3147 Forms.--

8 ~~(1)~~ All information required to be furnished by ss.
9 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
10 and by s. 8, Art. II of the State Constitution shall be on
11 forms prescribed by the Commission on Ethics.

12 ~~(2)(a) With respect to reporting assets valued in~~
13 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~
14 ~~which the reporting individual holds jointly with another~~
15 ~~person, the amount reported shall be based on the reporting~~
16 ~~individual's legal percentage of ownership in the property,~~
17 ~~except that assets held jointly with the reporting~~
18 ~~individual's spouse shall be reported at 100 percent of the~~
19 ~~value of the asset. For purposes of this subsection, a~~
20 ~~reporting individual is deemed to own an interest in a~~
21 ~~partnership which corresponds to the reporting individual's~~
22 ~~interest in the capital or equity of the partnership.~~

23 ~~(b)1. With respect to reporting liabilities valued in~~
24 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~
25 ~~for which the reporting individual is jointly and severally~~
26 ~~liable, the amount reported shall be based upon the reporting~~
27 ~~individual's percentage of liability rather than the total~~
28 ~~amount of the liability, except, a joint and several liability~~
29 ~~with the reporting individual's spouse for a debt which~~
30 ~~relates to property owned by both as tenants by the entirety~~
31 ~~shall be reported at 100 percent of the total amount owed.~~

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

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

8 112.3148 Reporting and prohibited receipt of gifts by
9 individuals filing full or limited public disclosure of
10 financial interests and by procurement employees.--

11 (6)

12 (d) No later than July 1 of each year, each reporting
13 individual or procurement employee shall file a statement
14 listing each gift having a value in excess of \$100 received by
15 the reporting individual or procurement employee, either
16 directly or indirectly, from a governmental entity or a
17 direct-support organization specifically authorized by law to
18 support a governmental entity. The statement shall list the
19 name of the person providing the gift, a description of the
20 gift, the date or dates on which the gift was given, and the
21 value of the total gifts given during the calendar year for
22 which the report is made. The reporting individual or
23 procurement employee shall attach to the ~~such~~ statement any
24 report received by him or her in accordance with paragraph
25 (c), which report shall become a public record when filed with
26 the statement of the reporting individual or procurement
27 employee. The reporting individual or procurement employee may
28 explain any differences between the report of the reporting
29 individual or procurement employee and the attached reports.
30 The annual report filed by a reporting individual shall be
31 filed with the financial disclosure statement required by

1 either s. 8, Art. II of the State Constitution or s. 112.3145,
2 as applicable to the reporting individual. The annual report
3 filed by a procurement employee shall be filed with the
4 Commission on Ethics. The report filed by a reporting
5 individual or procurement employee who left office or
6 employment during the calendar year covered by the report
7 shall be filed by July 1 of the year after leaving office or
8 employment at the same location as his or her final financial
9 disclosure statement or, in the case of a former procurement
10 employee, with the Commission on Ethics.

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

- 20 1. Gifts from relatives.
- 21 2. Gifts prohibited by subsection (4) or s.
22 112.313(4).
- 23 3. Gifts otherwise required to be disclosed by this
24 section.

25 (b) The statement shall include:

- 26 1. A description of the gift, the monetary value of
27 the gift, the name and address of the person making the gift,
28 and the dates thereof. If any of these facts, other than the
29 gift description, are unknown or not applicable, the report
30 shall so state.

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

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

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

9 (e) Statements must be filed not later than 5 p.m. of
10 the due date. However, any statement that is postmarked by the
11 United States Postal Service by midnight of the due date is
12 deemed to have been filed in a timely manner, and a
13 certificate of mailing obtained from and dated by the United
14 States Postal Service at the time of the mailing, or a receipt
15 from an established courier company which bears a date on or
16 before the due date, constitutes proof of mailing in a timely
17 manner.

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

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

24 112.3149 Solicitation and disclosure of honoraria.--

25 (6) A reporting individual or procurement employee who
26 receives payment or provision of expenses related to any
27 honorarium event from a person who is prohibited by subsection
28 (4) from paying an honorarium to a reporting individual or
29 procurement employee shall publicly disclose on an annual
30 statement the name, address, and affiliation of the person
31 paying or providing the expenses; the amount of the honorarium

1 | expenses; the date of the honorarium event; a description of
2 | the expenses paid or provided on each day of the honorarium
3 | event; and the total value of the expenses provided to the
4 | reporting individual or procurement employee in connection
5 | with the honorarium event. The annual statement of honorarium
6 | expenses shall be filed by July 1 of each year for ~~these such~~
7 | expenses received during the previous calendar year. The
8 | reporting individual or procurement employee shall attach to
9 | the annual statement a copy of each statement received by him
10 | or her in accordance with subsection (5) regarding honorarium
11 | expenses paid or provided during the calendar year for which
12 | the annual statement is filed. ~~The Such~~ attached statement
13 | shall become a public record upon the filing of the annual
14 | report. The annual statement of a reporting individual shall
15 | be filed with the financial disclosure statement required by
16 | either s. 8, Art. II of the State Constitution or s. 112.3145,
17 | as applicable to the reporting individual. The annual
18 | statement of a procurement employee shall be filed with the
19 | Commission on Ethics. The statement filed by a reporting
20 | individual or procurement employee who left office or
21 | employment during the calendar year covered by the statement
22 | shall be filed by July 1 of the year after leaving office or
23 | employment at the same location as his or her final financial
24 | disclosure statement or, in the case of a former procurement
25 | employee, with the Commission on Ethics.

26 | Section 8. Subsections (1), (2), (6), (7), and (8) of
27 | section 112.317, Florida Statutes, are amended to read:

28 | 112.317 Penalties.--

29 | (1) Violation of any provision of this part,
30 | including, but not limited to, any failure to file any
31 | disclosures required by this part or violation of any standard

1 of conduct imposed by this part, or violation of any provision
2 of s. 8, Art. II of the State Constitution, in addition to any
3 criminal penalty or other civil penalty involved, shall, under
4 ~~pursuant to~~ applicable constitutional and statutory
5 procedures, constitute grounds for, and may be punished by,
6 one or more of the following:

- 7 (a) In the case of a public officer:
- 8 1. Impeachment.
 - 9 2. Removal from office.
 - 10 3. Suspension from office.
 - 11 4. Public censure and reprimand.
 - 12 5. Forfeiture of no more than one-third salary per
13 month for no more than 12 months.
 - 14 6. A civil penalty not to exceed \$10,000.
 - 15 7. Restitution of any pecuniary benefits received
16 because of the violation committed. The commission may
17 recommend that the restitution penalty be paid to the agency
18 of which the public officer was a member or to the General
19 Revenue Fund.

- 20 (b) In the case of an employee or a person designated
21 as a public officer by this part who otherwise would be deemed
22 to be an employee:
- 23 1. Dismissal from employment.
 - 24 2. Suspension from employment for not more than 90
25 days without pay.
 - 26 3. Demotion.
 - 27 4. Reduction in salary level.
 - 28 5. Forfeiture of no more than one-third salary per
29 month for no more than 12 months.
 - 30 6. A civil penalty not to exceed \$10,000.

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1 7. Restitution of any pecuniary benefits received
2 because of the violation committed. The commission may
3 recommend that the restitution penalty be paid to the agency
4 by which the public employee was employed, or of which the
5 officer was deemed to be an employee, or to the General
6 Revenue Fund.

7 8. Public censure and reprimand.

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

- 11 1. Disqualification from being on the ballot.
- 12 2. Public censure.
- 13 3. Reprimand.
- 14 4. A civil penalty not to exceed \$10,000.

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

- 19 1. Public censure and reprimand.
- 20 2. A civil penalty not to exceed \$10,000.
- 21 3. Restitution of any pecuniary benefits received

22 because of the violation committed. The commission may
23 recommend that the restitution penalty be paid to the agency
24 of the public officer or employee or to the General Revenue
25 Fund.

26 (2) In any case in which the commission finds a
27 violation of this part or of s. 8, Art. II of the State
28 Constitution and the proper disciplinary official or body
29 under s. 112.324, imposes ~~recommends~~ a civil penalty or
30 restitution penalty, the Attorney General shall bring a civil
31 action to recover such penalty. No defense may be raised in

1 | the civil action to enforce the civil penalty or order of
2 | restitution that could have been raised by judicial review of
3 | the administrative findings and recommendations of the
4 | commission by certiorari to the district court of appeal. The
5 | Attorney General shall collect any costs, attorney's fees,
6 | expert witness fees, or other costs of collection incurred in
7 | bringing the action.

8 | ~~(6) Any person who willfully discloses, or permits to~~
9 | ~~be disclosed, his or her intention to file a complaint, the~~
10 | ~~existence or contents of a complaint which has been filed with~~
11 | ~~the commission, or any document, action, or proceeding in~~
12 | ~~connection with a confidential preliminary investigation of~~
13 | ~~the commission, before such complaint, document, action, or~~
14 | ~~proceeding becomes a public record as provided herein commits~~
15 | ~~a misdemeanor of the first degree, punishable as provided in~~
16 | ~~s. 775.082 or s. 775.083.~~

17 | ~~(6)(7)~~ In any case in which the commission finds
18 | probable cause to believe that a complainant has committed
19 | perjury in regard to any document filed with, or any testimony
20 | given before, the commission, it shall refer such evidence to
21 | the appropriate law enforcement agency for prosecution and
22 | taxation of costs.

23 | ~~(7)(8)~~ In any case in which the commission determines
24 | that a person has filed a complaint against a public officer
25 | or employee with a malicious intent to injure the reputation
26 | of such officer or employee by filing the complaint with
27 | knowledge that the complaint contains one or more false
28 | allegations or with reckless disregard for whether the
29 | complaint contains false allegations of fact material to a
30 | violation of this part, the complainant shall be liable for
31 | costs plus reasonable attorney's fees incurred in the defense

1 of the person complained against, including the costs and
2 reasonable attorney's fees incurred in proving entitlement to
3 and the amount of costs and fees. If the complainant fails to
4 pay such costs and fees voluntarily within 30 days following
5 such finding by the commission, the commission shall forward
6 such information to the Department of Legal Affairs, which
7 shall bring a civil action in a court of competent
8 jurisdiction to recover the amount of such costs and fees
9 awarded by the commission.

10 Section 9. Section 112.3185, Florida Statutes, is
11 amended to read:

12 112.3185 Additional standards for state agency
13 employees ~~Contractual services~~.--

14 (1) For the purposes of this section:

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

17 (b) "Agency" means any state officer, department,
18 board, commission, or council of the executive or judicial
19 branch of state government and includes the Public Service
20 Commission.

21 (2) No agency employee who participates through
22 decision, approval, disapproval, recommendation, preparation
23 of any part of a purchase request, influencing the content of
24 any specification or procurement standard, rendering of
25 advice, investigation, or auditing or in any other advisory
26 capacity in the procurement of contractual services shall
27 become or be, while an agency employee, the employee of a
28 person contracting with the agency by whom the employee is
29 employed.

30 (3) No agency employee shall, after retirement or
31 termination, have or hold any employment or contractual

1 relationship with any business entity other than an agency in
2 connection with any contract in which the agency employee
3 participated personally and substantially through decision,
4 approval, disapproval, recommendation, rendering of advice, or
5 investigation while an officer or employee. When the agency
6 employee's position is eliminated and his or her duties are
7 performed by the business entity, this subsection does not
8 prohibit him or her from employment or contractual
9 relationship with the business entity if the employee's
10 participation in the contract was limited to recommendation,
11 rendering of advice, or investigation while an employee and if
12 the agency head determines that the best interests of the
13 state will be served thereby and provides prior written
14 approval for the particular employee.

15 (4) No agency employee shall, within 2 years after
16 retirement or termination, have or hold any employment or
17 contractual relationship with any business entity other than
18 an agency in connection with any contract for contractual
19 services which was within his or her responsibility while an
20 employee. If the agency employee's position is eliminated and
21 his or her duties are performed by the business entity, the
22 provisions of this subsection may be waived by the agency head
23 through prior written approval for a particular employee if
24 the agency head determines that the best interests of the
25 state will be served thereby.

26 (5) The sum of money paid to a former agency employee
27 during the first year after the cessation of his or her
28 responsibilities, by the agency with whom he or she was
29 employed, for contractual services provided to the agency,
30 shall not exceed the annual salary received on the date of
31 cessation of his or her responsibilities. ~~The provisions of~~

1 This subsection may be waived by the agency head for a
2 particular contract if the agency head determines that ~~a such~~
3 waiver will result in significant time or cost savings for the
4 state.

5 (6) No agency employee shall, after retirement or
6 termination, represent or advise another person or entity,
7 except the state, in any matter in which the employee
8 participated personally in his or her official capacity
9 through decision, approval, disapproval, recommendation,
10 rendering of advice, investigation, or otherwise while an
11 employee. The term "matter" includes any judicial or other
12 proceeding, application, request for a ruling, or other
13 determination, contract, claim, controversy, investigation,
14 charge, accusation, arrest, or other particular action
15 involving a specific party or parties.

16 ~~(7)(6)~~ No agency employee acting in an official
17 capacity shall directly or indirectly procure contractual
18 services for his or her own agency from any business entity of
19 which a relative is an officer, partner, director, or
20 proprietor or in which ~~the such~~ officer or employee or his or
21 her spouse or child, or any combination of them, has a
22 material interest.

23 ~~(8)(7)~~ A violation of any provision of this section is
24 punishable in accordance with s. 112.317.

25 ~~(9)(8)~~ This section is not applicable to any employee
26 of the Public Service Commission who was so employed on or
27 before December 31, 1994.

28 Section 10. Paragraph (f) of subsection (5) of section
29 112.3215, Florida Statutes, is amended to read:

30
31

1 112.3215 Lobbyists before the executive branch or the
2 Constitution Revision Commission; registration and reporting;
3 investigation by commission.--

4 (5)

5 (f) The commission shall provide by rule the grounds
6 for waiving the fine and the procedures ~~a procedure~~ by which a
7 lobbyist who fails to timely file a report shall be notified
8 and assessed fines and the procedure for appealing the fines.
9 The rule shall provide for the following:

10 1. Upon determining that the report is late, the
11 person designated to review the timeliness of reports shall
12 immediately notify the lobbyist as to the failure to timely
13 file the report and that a fine is being assessed for each
14 late day. The fine shall be \$50 per day per report for each
15 late day up to a maximum of \$5,000 per late report.

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

19 a. When a report is actually received by the lobbyist
20 registration and reporting office.

21 b. When the report is postmarked.

22 c. When the certificate of mailing is dated.

23 d. When the receipt from an established courier
24 company is dated.

25 3. Such fine shall be paid within 30 days after the
26 notice of payment due is transmitted by the Lobbyist
27 Registration Office, unless appeal is made to the commission.
28 The moneys shall be deposited into the Executive Branch Lobby
29 Registration Trust Fund.

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

1 are not timely filed. However, to receive the one-time fine
2 waiver, all reports for which the lobbyist is responsible must
3 be filed within 30 days after the notice that any reports have
4 not been timely filed is transmitted by the Lobbyist
5 Registration Office. A fine shall be assessed for any
6 subsequent late-filed reports.

7 5. Any lobbyist may appeal or dispute a fine, based
8 upon unusual circumstances surrounding the failure to file on
9 the designated due date, and may request and shall be entitled
10 to a hearing before the commission, which shall have the
11 authority to waive the fine in whole or in part for good cause
12 shown. Any ~~such~~ request shall be made within 30 days after
13 the notice of payment due is transmitted by the Lobbyist
14 Registration Office. In such case, the lobbyist shall, within
15 the 30-day period, notify the person designated to review the
16 timeliness of reports in writing of his or her intention to
17 bring the matter before the commission.

18 6. The person designated to review the timeliness of
19 reports shall notify the commission of the failure of a
20 lobbyist to file a report after notice or of the failure of a
21 lobbyist to pay the fine imposed. The registration of a
22 lobbyist who fails to timely pay a fine is automatically
23 suspended until the fine is paid, unless an appeal of the fine
24 is pending before the commission.

25 7. Notwithstanding any provision of chapter 120, any
26 fine imposed under this subsection that is not waived by final
27 order of the commission and that remains unpaid more than 60
28 days after the notice of payment due or more than 60 days
29 after the commission renders a final order on the lobbyist's
30 appeal shall be collected by the Department of Financial
31 Services as a claim, debt, or other obligation owed to the

1 state, and the department may assign the collection of such
2 fine to a collection agent as provided in s. 17.20.

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

5 112.322 Duties and powers of commission.--

6 (4) The commission has the power to subpoena, audit,
7 and investigate. The commission may subpoena witnesses and
8 compel their attendance and testimony, administer oaths and
9 affirmations, take evidence, and require by subpoena the
10 production of any books, papers, records, or other items
11 relevant to the performance of the duties of the commission or
12 to the exercise of its powers. The commission may delegate to
13 its investigators the authority to administer oaths and
14 affirmations. The commission may delegate the authority to
15 issue subpoenas to its chair, and may authorize its employees
16 to serve any subpoena issued under this section. In the case
17 of a refusal to obey a subpoena issued to any person, the
18 commission may make application to any circuit court of this
19 state which shall have jurisdiction to order the witness to
20 appear before the commission and to produce evidence, if so
21 ordered, or to give testimony touching on the matter in
22 question. Failure to obey the order may be punished by the
23 court as contempt. Witnesses shall be paid mileage and
24 witnesses fees as authorized for witnesses in civil cases,
25 except that a witness who is required to travel outside the
26 county of his or her residence to testify is entitled to per
27 diem and travel expenses at the same rate provided for state
28 employees under s. 112.061, to be paid after the witness
29 appears.

30 Section 12. Section 112.324, Florida Statutes, is
31 amended to read:

1 112.324 Procedures on complaints of violations; public
2 records and meeting exemptions.--

3 (1) ~~Upon a written complaint executed on a form~~
4 ~~prescribed by the commission and signed under oath or~~
5 ~~affirmation by any person,~~ The commission shall investigate
6 any alleged violation of this part or any other alleged breach
7 of the public trust within the jurisdiction of the commission
8 as provided in s. 8(f), Art. II of the State Constitution in
9 accordance with procedures set forth herein:

10 (a) On a written complaint executed on a form
11 prescribed by the commission and signed under oath or
12 affirmation by any person;

13 (b) Upon receipt of reliable and publicly disseminated
14 information that the commission unanimously deems sufficient
15 to indicate a breach of the public trust, except that
16 commission staff may not undertake a formal investigation
17 other than collecting publicly disseminated information before
18 a determination of sufficiency by the commission; or

19 (c) Upon receipt of a written referral of a possible
20 violation of this part or other possible breach of the public
21 trust from the Governor, the Chief Financial Officer, a state
22 attorney, the executive director of the Department of Law
23 Enforcement, or the statewide prosecutor, which the commission
24 unanimously deems sufficient to indicate a breach of the
25 public trust.

26
27 Within 5 days after receipt of a complaint by the commission,
28 or after determination by the commission that the information
29 or referral received is deemed sufficient, a copy shall be
30 transmitted to the alleged violator.
31

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

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

1 | the issuance of a public report to the complainant and the
2 | alleged violator, stating with particularity its reasons for
3 | dismissal ~~of the complaint~~. At that time, the complaint, the
4 | proceeding, and all materials relating to the complaint shall
5 | become a matter of public record. If the commission finds from
6 | the preliminary investigation probable cause to believe that
7 | this part has been violated or that any other breach of the
8 | public trust has been committed, it shall so notify the
9 | complainant and the alleged violator in writing. ~~The Such~~
10 | notification and all documents made or received in the
11 | disposition of the complaint or proceedings shall then become
12 | public records. Upon request submitted to the commission in
13 | writing, any person who the commission finds probable cause to
14 | believe has violated any provision of this part or has
15 | committed any other breach of the public trust shall be
16 | entitled to a public hearing. ~~The Such~~ person shall be deemed
17 | to have waived the right to a public hearing if the request is
18 | not received within 14 days following the mailing of the
19 | probable cause notification required by this subsection.
20 | However, the commission may on its own motion, require a
21 | public hearing, may conduct such further investigation as it
22 | deems necessary, and may enter into ~~such~~ stipulations and
23 | settlements as it finds to be just and in the best interest of
24 | the state. The commission is without jurisdiction to, and no
25 | respondent may voluntarily or involuntarily, enter into a
26 | stipulation or settlement which imposes any penalty,
27 | including, but not limited to, a sanction or admonition or any
28 | other penalty contained in s. 112.317. Penalties shall be
29 | imposed only by the appropriate disciplinary authority as
30 | designated in this section.
31 |

1 (4) If, in cases pertaining to members of the
2 Legislature, upon completion of a full and final investigation
3 by the commission, the commission finds that there has been a
4 violation of this part or of any provision of s. 8, Art. II of
5 the State Constitution, the commission shall forward a copy of
6 the complaint, information, or referral and its findings by
7 certified mail to the President of the Senate or the Speaker
8 of the House of Representatives, whichever is applicable, who
9 shall refer the matter ~~complaint~~ to the appropriate committee
10 for investigation and action which shall be governed by the
11 rules of its respective house. It shall be the duty of the
12 committee to report its final action upon the matter ~~complaint~~
13 to the commission within 90 days of the date of transmittal to
14 the respective house. Upon request of the committee, the
15 commission shall submit a recommendation as to what penalty,
16 if any, should be imposed. In the case of a member of the
17 Legislature, the house in which the member serves has ~~shall~~
18 ~~have~~ the power to invoke the penalty provisions of this part.

19 (5) If, in cases pertaining to complaints against
20 impeachable officers, upon completion of a full and final
21 investigation by the commission, the commission finds that
22 there has been a violation of this part or ~~of any provision~~ of
23 s. 8, Art. II of the State Constitution, and the commission
24 finds that the violation may constitute grounds for
25 impeachment, the commission shall forward a copy of the
26 complaint and its findings by certified mail to the Speaker of
27 the House of Representatives, who shall refer the complaint to
28 the appropriate committee for investigation and action which
29 shall be governed by the rules of the House of
30 Representatives. It shall be the duty of the committee to
31

1 report its final action upon the complaint to the commission
2 within 90 days of the date of transmittal.

3 (6) If the commission finds that there has been a
4 violation of this part or of ~~any provision of~~ s. 8, Art. II of
5 the State Constitution by an impeachable officer other than
6 the Governor, and the commission recommends public censure and
7 reprimand, forfeiture of a portion of the officer's salary, a
8 civil penalty, or restitution, the commission shall report its
9 findings and recommendation of disciplinary action to the
10 Governor, who has ~~shall have~~ the power to invoke the penalty
11 provisions of this part.

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

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

1 candidate from the ballot for a violation of s. 112.3145 or s.
2 8(a) and (i), Art. II of the State Constitution:

3 (a) The President of the Senate and the Speaker of the
4 House of Representatives, jointly, in any case concerning the
5 Public Counsel, members of the Public Service Commission,
6 members of the Public Service Commission Nominating Council,
7 the Auditor General, the director of the Office of Program
8 Policy Analysis and Government Accountability, or members of
9 the Legislative Committee on Intergovernmental Relations.

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

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

23 (d) Except as otherwise provided by this part, the
24 Governor, in the case of any other public officer, public
25 employee, former public officer or public employee, candidate,
26 or former candidate.

27 (e) The President of the Senate or the Speaker of the
28 House of Representatives, whichever is applicable, in any case
29 concerning a former member of the Legislature who has violated
30 a provision applicable to former members or whose violation
31 occurred while a member of the Legislature.

1 (9) In addition to reporting its findings to the
2 proper disciplinary body or official, the commission shall
3 report these findings to the state attorney or any other
4 appropriate official or agency having authority to initiate
5 prosecution when violation of criminal law is indicated.

6 (10) Notwithstanding the foregoing procedures of this
7 section, a sworn complaint against any member or employee of
8 the Commission on Ethics for violation of this part or of s.
9 8, Art. II of the State Constitution shall be filed with the
10 President of the Senate and the Speaker of the House of
11 Representatives. Each presiding officer shall, after
12 determining that there are sufficient grounds for review,
13 appoint three members of their respective bodies to a special
14 joint committee who shall investigate the complaint. The
15 members shall elect a chair from among their number. If the
16 special joint committee finds insufficient evidence to
17 establish probable cause to believe a violation of this part
18 or of s. 8, Art. II of the State Constitution has occurred, it
19 shall dismiss the complaint. If, upon completion of its
20 preliminary investigation, the committee finds sufficient
21 evidence to establish probable cause to believe a violation
22 has occurred, the chair thereof shall transmit such findings
23 to the Governor who shall convene a meeting of the Governor,
24 the President of the Senate, the Speaker of the House of
25 Representatives, and the Chief Justice of the Supreme Court to
26 take such final action on the complaint as they shall deem
27 appropriate, consistent with the penalty provisions of this
28 part. Upon request of a majority of the Governor, the
29 President of the Senate, the Speaker of the House of
30 Representatives, and the Chief Justice of the Supreme Court,
31

1 the special joint committee shall submit a recommendation as
2 to what penalty, if any, should be imposed.

3 (11) Notwithstanding the provisions of subsections
4 (1)-(8), the commission may, at its discretion, dismiss any
5 complaint, information, or referral at any stage of
6 disposition should it determine that the public interest would
7 not be served by proceeding further, in which case the
8 commission shall issue a public report stating with
9 particularity its reasons for the dismissal.

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

12 914.21 Definitions.--As used in ss. 914.22-914.24, the
13 term:

14 (3) "Official investigation" means any investigation
15 instituted by a law enforcement agency or prosecuting officer
16 of the state or a political subdivision of the state, or the
17 Commission on Ethics.

18 (4) "Official proceeding" means:

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

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

22 (c) A proceeding before a federal agency which is
23 authorized by law; or-

24 (d) A proceeding before the Commission on Ethics.

25 Section 14. This act shall take effect July 1, 2005.

SENATE SUMMARY

1
2
3 Prohibits employees of the state and its political
4 subdivisions from participating in a political campaign
5 during certain time periods. Redefines the term
6 "employee" to include certain other-personal-services
7 employees for certain postemployment activities. Provides
8 an exemption to a person who, after serving on an
9 advisory board, files a statement with the Commission on
10 Ethics relating to a bid or submission. Requires that a
11 delinquency notice be sent to certain officeholders by
12 certified mail, return receipt requested. Reduces the
13 maximum penalty for failing to file a disclosure of
14 financial interests. Permits the Commission on Ethics to
15 recommend where a restitution penalty may be paid.
16 Authorizes the Department of Legal Affairs to recover
17 costs for filing suits to collect penalties and fines.
18 Provides additional standards for state agency employees
19 relating to procurement of goods and services by a state
20 agency. Authorizes an employee whose position was
21 eliminated to engage in certain contractual activities.
22 Requires the automatic suspension of a lobbyist's
23 registration if a fine is not timely paid. Provides
24 procedures for the commission to handle complaints of
25 violations. (See bill for details.)
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27
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31