

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

1 witnesses, to include an investigation by the
2 Commission on Ethics; providing an effective
3 date.
4

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

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

11 104.31 Political activities of state, county, and
12 municipal officers and employees.--

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

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

22 112.313 Standards of conduct for public officers,
23 employees of agencies, and local government attorneys.--

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

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

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

8 2. As used in this paragraph:

9 a. "Employee" means:

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

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

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

25 (IV) An executive director, staff director, or deputy
26 staff director of each joint committee, standing committee, or
27 select committee of the Legislature; an executive director,
28 staff director, executive assistant, analyst, or attorney of
29 the Office of the President of the Senate, the Office of the
30 Speaker of the House of Representatives, the Senate Majority
31 Party Office, Senate Minority Party Office, House Majority

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

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

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

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

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

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

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

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

10 6. This paragraph is not applicable to:

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

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

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

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

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

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

28 (12) EXEMPTION.--The requirements of subsections (3)
29 and (7) as they pertain to persons serving on advisory boards
30 may be waived in a particular instance by the body which
31 appointed the person to the advisory board, upon a full

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

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

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

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

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

29 (14) LOBBYING BY FORMER LOCAL OFFICERS;
30 PROHIBITION.--A person who has been elected to any county,
31 municipal, special district, or school district office may not

1 personally represent another person or entity for compensation
2 before the ~~government governing~~ body or agency of which the
3 person was an officer for a period of 2 years after vacating
4 that office.

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

9 112.3144 Full and public disclosure of financial
10 interests.--

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

22 (b)1. With respect to reporting liabilities valued in
23 excess of \$1,000 on forms prescribed under this section for
24 which the reporting individual is jointly and severally
25 liable, the amount reported shall be based on the reporting
26 individual's percentage of liability rather than the total
27 amount of the liability. However, liability for a debt that is
28 secured by property owned by the reporting individual but that
29 is held jointly, with right of survivorship, must be reported
30 at 100 percent of the total amount owed.

31

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 subparagraph 1.

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

7 112.3145 Disclosure of financial interests and clients
8 represented before agencies.--

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

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

1 | commission finds that the person has failed to timely file the
2 | statement within 60 days after September 1 of the current
3 | year, such person will also be subject to the penalties
4 | provided in s. 112.317.

5 | (f) Any person who is required to file a statement of
6 | financial interests and whose name is on the commission's
7 | mailing list but who fails to timely file is assessed a fine
8 | of \$25 per day for each day late up to a maximum of \$1,500;
9 | however, this \$1,500 limitation on automatic fines does not
10 | limit the civil penalty that may be imposed if the statement
11 | is filed more than 60 days after the deadline and a complaint
12 | is filed, as provided in s. 112.324. The commission must
13 | provide by rule the grounds for waiving the fine and
14 | procedures by which each person whose name is on the mailing
15 | list and who is determined to have not filed in a timely
16 | manner will be notified of assessed fines and may appeal. The
17 | rule must provide for and make specific the following:

18 | 1. The amount of the fine due is based upon the
19 | earliest of the following:

20 | a. When a statement is actually received by the
21 | office.

22 | b. When the statement is postmarked.

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

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

26 | 2. For a specified state employee or a state officer,
27 | upon receipt of the disclosure statement by the commission or
28 | upon accrual of the maximum penalty, whichever occurs first,
29 | and for a local officer upon receipt by the commission of the
30 | certification from the local officer's supervisor of elections
31 | pursuant to paragraph (d), the commission shall determine the

1 amount of the fine which is due and shall notify the
2 delinquent person. The notice must include an explanation of
3 the appeal procedure under subparagraph 3. The fine must be
4 paid within 30 days after the notice of payment due is
5 transmitted, unless appeal is made to the commission pursuant
6 to subparagraph 3. The moneys are to be deposited into the
7 General Revenue Fund.

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

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

22 112.3147 Forms.--

23 ~~(1)~~ All information required to be furnished by ss.
24 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
25 and by s. 8, Art. II of the State Constitution shall be on
26 forms prescribed by the Commission on Ethics.

27 ~~(2)(a)~~ ~~With respect to reporting assets valued in~~
28 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~
29 ~~which the reporting individual holds jointly with another~~
30 ~~person, the amount reported shall be based on the reporting~~
31 ~~individual's legal percentage of ownership in the property,~~

1 ~~except that assets held jointly with the reporting~~
2 ~~individual's spouse shall be reported at 100 percent of the~~
3 ~~value of the asset. For purposes of this subsection, a~~
4 ~~reporting individual is deemed to own an interest in a~~
5 ~~partnership which corresponds to the reporting individual's~~
6 ~~interest in the capital or equity of the partnership.~~

7 ~~(b)1. With respect to reporting liabilities valued in~~
8 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~
9 ~~for which the reporting individual is jointly and severally~~
10 ~~liable, the amount reported shall be based upon the reporting~~
11 ~~individual's percentage of liability rather than the total~~
12 ~~amount of the liability, except, a joint and several liability~~
13 ~~with the reporting individual's spouse for a debt which~~
14 ~~relates to property owned by both as tenants by the entirety~~
15 ~~shall be reported at 100 percent of the total amount owed.~~

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

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

23 112.3148 Reporting and prohibited receipt of gifts by
24 individuals filing full or limited public disclosure of
25 financial interests and by procurement employees.--

26 (6)

27 (d) No later than July 1 of each year, each reporting
28 individual or procurement employee shall file a statement
29 listing each gift having a value in excess of \$100 received by
30 the reporting individual or procurement employee, either
31 directly or indirectly, from a governmental entity or a

1 direct-support organization specifically authorized by law to
2 support a governmental entity. The statement shall list the
3 name of the person providing the gift, a description of the
4 gift, the date or dates on which the gift was given, and the
5 value of the total gifts given during the calendar year for
6 which the report is made. The reporting individual or
7 procurement employee shall attach to the ~~such~~ statement any
8 report received by him or her in accordance with paragraph
9 (c), which report shall become a public record when filed with
10 the statement of the reporting individual or procurement
11 employee. The reporting individual or procurement employee may
12 explain any differences between the report of the reporting
13 individual or procurement employee and the attached reports.
14 The annual report filed by a reporting individual shall be
15 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 report
18 filed by a procurement employee shall be filed with the
19 Commission on Ethics. The report filed by a reporting
20 individual or procurement employee who left office or
21 employment during the calendar year covered by the report
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 (8)(a) Each reporting individual or procurement
27 employee shall file a statement with the Commission on Ethics
28 not later than ~~on~~ the last day of each calendar quarter, for
29 the previous calendar quarter, containing a list of gifts
30 which he or she believes to be in excess of \$100 in value, if
31 any, accepted by him or her, for which compensation was not

1 provided by the donee to the donor within 90 days of receipt
2 of the gift to reduce the value to \$100 or less, except the
3 following:

- 4 1. Gifts from relatives.
- 5 2. Gifts prohibited by subsection (4) or s.
6 112.313(4).
- 7 3. Gifts otherwise required to be disclosed by this
8 section.

9 (b) The statement shall include:

10 1. A description of the gift, the monetary value of
11 the gift, the name and address of the person making the gift,
12 and the dates thereof. If any of these facts, other than the
13 gift description, are unknown or not applicable, the report
14 shall so state.

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

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

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

23 (e) Statements must be filed not later than 5 p.m. of
24 the due date. However, any statement that is postmarked by the
25 United States Postal Service by midnight of the due date is
26 deemed to have been filed in a timely manner, and a
27 certificate of mailing obtained from and dated by the United
28 States Postal Service at the time of the mailing, or a receipt
29 from an established courier company which bears a date on or
30 before the due date, constitutes proof of mailing in a timely
31 manner.

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

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

7 112.3149 Solicitation and disclosure of honoraria.--

8 (6) A reporting individual or procurement employee who
9 receives payment or provision of expenses related to any
10 honorarium event from a person who is prohibited by subsection
11 (4) from paying an honorarium to a reporting individual or
12 procurement employee shall publicly disclose on an annual
13 statement the name, address, and affiliation of the person
14 paying or providing the expenses; the amount of the honorarium
15 expenses; the date of the honorarium event; a description of
16 the expenses paid or provided on each day of the honorarium
17 event; and the total value of the expenses provided to the
18 reporting individual or procurement employee in connection
19 with the honorarium event. The annual statement of honorarium
20 expenses shall be filed by July 1 of each year for those ~~such~~
21 expenses received during the previous calendar year. The
22 reporting individual or procurement employee shall attach to
23 the annual statement a copy of each statement received by him
24 or her in accordance with subsection (5) regarding honorarium
25 expenses paid or provided during the calendar year for which
26 the annual statement is filed. The ~~Such~~ attached statement
27 shall become a public record upon the filing of the annual
28 report. The annual statement of a reporting individual shall
29 be filed with the financial disclosure statement required by
30 either s. 8, Art. II of the State Constitution or s. 112.3145,
31 as applicable to the reporting individual. The annual

1 statement of a procurement employee shall be filed with the
2 Commission on Ethics. The statement filed by a reporting
3 individual or procurement employee who left office or
4 employment during the calendar year covered by the statement
5 shall be filed by July 1 of the year after leaving office or
6 employment at the same location as his or her final financial
7 disclosure statement or, in the case of a former procurement
8 employee, with the Commission on Ethics.

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

11 112.317 Penalties.--

12 (1) Violation of any provision of this part,
13 including, but not limited to, any failure to file any
14 disclosures required by this part or violation of any standard
15 of conduct imposed by this part, or violation of any provision
16 of s. 8, Art. II of the State Constitution, in addition to any
17 criminal penalty or other civil penalty involved, shall, under
18 ~~pursuant to~~ applicable constitutional and statutory
19 procedures, constitute grounds for, and may be punished by,
20 one or more of the following:

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

- 22 1. Impeachment.
- 23 2. Removal from office.
- 24 3. Suspension from office.
- 25 4. Public censure and reprimand.
- 26 5. Forfeiture of no more than one-third salary per
27 month for no more than 12 months.
- 28 6. A civil penalty not to exceed \$10,000.
- 29 7. Restitution of any pecuniary benefits received
30 because of the violation committed. The commission may
31 recommend that the restitution penalty be paid to the agency

1 of which the public officer was a member or to the General
2 Revenue Fund.

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

- 6 1. Dismissal from employment.
- 7 2. Suspension from employment for not more than 90
8 days without pay.
- 9 3. Demotion.
- 10 4. Reduction in salary level.
- 11 5. Forfeiture of no more than one-third salary per
12 month for no more than 12 months.

- 13 6. A civil penalty not to exceed \$10,000.
- 14 7. Restitution of any pecuniary benefits received
15 because of the violation committed. The commission may
16 recommend that the restitution penalty be paid to the agency
17 by which the public employee was employed, or of which the
18 officer was deemed to be an employee, or to the General
19 Revenue Fund.

- 20 8. Public censure and reprimand.

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

- 24 1. Disqualification from being on the ballot.
- 25 2. Public censure.
- 26 3. Reprimand.
- 27 4. A civil penalty not to exceed \$10,000.

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

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

8 (2) In any case in which the commission finds a
9 violation of this part or of s. 8, Art. II of the State
10 Constitution and the proper disciplinary official or body
11 under s. 112.324 imposes ~~recommends~~ a civil penalty or
12 restitution penalty, the Attorney General shall bring a civil
13 action to recover such penalty. No defense may be raised in
14 the civil action to enforce the civil penalty or order of
15 restitution that could have been raised by judicial review of
16 the administrative findings and recommendations of the
17 commission by certiorari to the district court of appeal. The
18 Attorney General shall collect any costs, attorney's fees,
19 expert witness fees, or other costs of collection incurred in
20 bringing the action.

21 ~~(6) Any person who willfully discloses, or permits to~~
22 ~~be disclosed, his or her intention to file a complaint, the~~
23 ~~existence or contents of a complaint which has been filed with~~
24 ~~the commission, or any document, action, or proceeding in~~
25 ~~connection with a confidential preliminary investigation of~~
26 ~~the commission, before such complaint, document, action, or~~
27 ~~proceeding becomes a public record as provided herein commits~~
28 ~~a misdemeanor of the first degree, punishable as provided in~~
29 ~~s. 775.082 or s. 775.083.~~

30 ~~(6)(7)~~ In any case in which the commission finds
31 probable cause to believe that a complainant has committed

1 | perjury in regard to any document filed with, or any testimony
2 | given before, the commission, it shall refer such evidence to
3 | the appropriate law enforcement agency for prosecution and
4 | taxation of costs.

5 | ~~(7)(8)~~ In any case in which the commission determines
6 | that a person has filed a complaint against a public officer
7 | or employee with a malicious intent to injure the reputation
8 | of such officer or employee by filing the complaint with
9 | knowledge that the complaint contains one or more false
10 | allegations or with reckless disregard for whether the
11 | complaint contains false allegations of fact material to a
12 | violation of this part, the complainant shall be liable for
13 | costs plus reasonable attorney's fees incurred in the defense
14 | of the person complained against, including the costs and
15 | reasonable attorney's fees incurred in proving entitlement to
16 | and the amount of costs and fees. If the complainant fails to
17 | pay such costs and fees voluntarily within 30 days following
18 | such finding by the commission, the commission shall forward
19 | such information to the Department of Legal Affairs, which
20 | shall bring a civil action in a court of competent
21 | jurisdiction to recover the amount of such costs and fees
22 | awarded by the commission.

23 | Section 9. Section 112.3185, Florida Statutes, is
24 | amended to read:

25 | 112.3185 Additional standards for state agency
26 | employees ~~Contractual services~~.--

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

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

30 | (b) "Agency" means any state officer, department,
31 | board, commission, or council of the executive or judicial

1 branch of state government and includes the Public Service
2 Commission.

3 (2) No agency employee who participates through
4 decision, approval, disapproval, recommendation, preparation
5 of any part of a purchase request, influencing the content of
6 any specification or procurement standard, rendering of
7 advice, investigation, or auditing or in any other advisory
8 capacity in the procurement of contractual services shall
9 become or be, while an agency employee, the employee of a
10 person contracting with the agency by whom the employee is
11 employed.

12 (3) No agency employee shall, after retirement or
13 termination, have or hold any employment or contractual
14 relationship with any business entity other than an agency in
15 connection with any contract in which the agency employee
16 participated personally and substantially through decision,
17 approval, disapproval, recommendation, rendering of advice, or
18 investigation while an officer or employee. When the agency
19 employee's position is eliminated and his or her duties are
20 performed by the business entity, this subsection does not
21 prohibit him or her from employment or contractual
22 relationship with the business entity if the employee's
23 participation in the contract was limited to recommendation,
24 rendering of advice, or investigation while an employee and if
25 the agency head determines that the best interests of the
26 state will be served thereby and provides prior written
27 approval for the particular employee.

28 (4) No agency employee shall, within 2 years after
29 retirement or termination, have or hold any employment or
30 contractual relationship with any business entity other than
31 an agency in connection with any contract for contractual

1 services which was within his or her responsibility while an
2 employee. If the agency employee's position is eliminated and
3 his or her duties are performed by the business entity, the
4 provisions of this subsection may be waived by the agency head
5 through prior written approval for a particular employee if
6 the agency head determines that the best interests of the
7 state will be served thereby.

8 (5) The sum of money paid to a former agency employee
9 during the first year after the cessation of his or her
10 responsibilities, by the agency with whom he or she was
11 employed, for contractual services provided to the agency,
12 shall not exceed the annual salary received on the date of
13 cessation of his or her responsibilities. ~~The provisions of~~
14 This subsection may be waived by the agency head for a
15 particular contract if the agency head determines that such
16 waiver will result in significant time or cost savings for the
17 state.

18 (6) No agency employee shall, after retirement or
19 termination, represent or advise another person or entity,
20 except the state, in any matter in which the employee
21 participated personally in his or her official capacity
22 through decision, approval, disapproval, recommendation,
23 rendering of advice, investigation, or otherwise while an
24 employee. The term "matter" includes any judicial or other
25 proceeding, application, request for a ruling, or other
26 determination, contract, claim, controversy, investigation,
27 charge, accusation, arrest, or other particular action
28 involving a specific party or parties.

29 ~~(7)(6)~~ No agency employee acting in an official
30 capacity shall directly or indirectly procure contractual
31 services for his or her own agency from any business entity of

1 | which a relative is an officer, partner, director, or
2 | proprietor or in which ~~the~~ ~~such~~ officer or employee or his or
3 | her spouse or child, or any combination of them, has a
4 | material interest.

5 | ~~(8)~~~~(7)~~ A violation of any provision of this section is
6 | punishable in accordance with s. 112.317.

7 | ~~(9)~~~~(8)~~ This section is not applicable to any employee
8 | of the Public Service Commission who was so employed on or
9 | before December 31, 1994.

10 | Section 10. Paragraph (f) of subsection (5) of section
11 | 112.3215, Florida Statutes, is amended to read:

12 | 112.3215 Lobbyists before the executive branch or the
13 | Constitution Revision Commission; registration and reporting;
14 | investigation by commission.--

15 | (5)

16 | (f) The commission shall provide by rule the grounds
17 | for waiving a fine and the procedures ~~a procedure~~ by which a
18 | lobbyist who fails to timely file a report shall be notified
19 | and assessed fines and the procedure for appealing the fines.

20 | The rule shall provide for the following:

21 | 1. Upon determining that the report is late, the
22 | person designated to review the timeliness of reports shall
23 | immediately notify the lobbyist as to the failure to timely
24 | file the report and that a fine is being assessed for each
25 | late day. The fine shall be \$50 per day per report for each
26 | late day up to a maximum of \$5,000 per late report.

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

30 | a. When a report is actually received by the lobbyist
31 | registration and reporting office.

- 1 b. When the report is postmarked.
- 2 c. When the certificate of mailing is dated.
- 3 d. When the receipt from an established courier
- 4 company is dated.
- 5 3. Such fine shall be paid within 30 days after the
- 6 notice of payment due is transmitted by the Lobbyist
- 7 Registration Office, unless appeal is made to the commission.
- 8 The moneys shall be deposited into the Executive Branch Lobby
- 9 Registration Trust Fund.
- 10 4. A fine shall not be assessed against a lobbyist the
- 11 first time any reports for which the lobbyist is responsible
- 12 are not timely filed. However, to receive the one-time fine
- 13 waiver, all reports for which the lobbyist is responsible must
- 14 be filed within 30 days after the notice that any reports have
- 15 not been timely filed is transmitted by the Lobbyist
- 16 Registration Office. A fine shall be assessed for any
- 17 subsequent late-filed reports.
- 18 5. Any lobbyist may appeal or dispute a fine, based
- 19 upon unusual circumstances surrounding the failure to file on
- 20 the designated due date, and may request and shall be entitled
- 21 to a hearing before the commission, which shall have the
- 22 authority to waive the fine in whole or in part for good cause
- 23 shown. Any ~~such~~ request shall be made within 30 days after the
- 24 notice of payment due is transmitted by the Lobbyist
- 25 Registration Office. In such case, the lobbyist shall, within
- 26 the 30-day period, notify the person designated to review the
- 27 timeliness of reports in writing of his or her intention to
- 28 bring the matter before the commission.
- 29 6. The person designated to review the timeliness of
- 30 reports shall notify the commission of the failure of a
- 31 lobbyist to file a report after notice or of the failure of a

1 lobbyist to pay the fine imposed. The registration of a
2 lobbyist who fails to timely pay a fine is automatically
3 suspended until the fine is paid, unless an appeal of the fine
4 is pending before the commission.

5 7. Notwithstanding any provision of chapter 120, any
6 fine imposed under this subsection that is not waived by final
7 order of the commission and that remains unpaid more than 60
8 days after the notice of payment due or more than 60 days
9 after the commission renders a final order on the lobbyist's
10 appeal shall be collected by the Department of Financial
11 Services as a claim, debt, or other obligation owed to the
12 state, and the department may assign the collection of such
13 fine to a collection agent as provided in s. 17.20.

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

16 112.322 Duties and powers of commission.--

17 (4) The commission has the power to subpoena, audit,
18 and investigate. The commission may subpoena witnesses and
19 compel their attendance and testimony, administer oaths and
20 affirmations, take evidence, and require by subpoena the
21 production of any books, papers, records, or other items
22 relevant to the performance of the duties of the commission or
23 to the exercise of its powers. The commission may delegate to
24 its investigators the authority to administer oaths and
25 affirmations. The commission may delegate the authority to
26 issue subpoenas to its chair, and may authorize its employees
27 to serve any subpoena issued under this section. In the case
28 of a refusal to obey a subpoena issued to any person, the
29 commission may make application to any circuit court of this
30 state which shall have jurisdiction to order the witness to
31 appear before the commission and to produce evidence, if so

1 ordered, or to give testimony touching on the matter in
2 question. Failure to obey the order may be punished by the
3 court as contempt. Witnesses shall be paid mileage and
4 witnesses fees as authorized for witnesses in civil cases,
5 except that a witness who is required to travel outside the
6 county of his or her residence to testify is entitled to per
7 diem and travel expenses at the same rate provided for state
8 employees under s. 112.061, to be paid after the witness
9 appears.

10 Section 12. Section 112.324, Florida Statutes, is
11 amended to read:

12 112.324 Procedures on complaints of violations; public
13 records and meeting exemptions.--

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

21 (a) On a written complaint executed on a form
22 prescribed by the commission and signed under oath or
23 affirmation by any person;

24 (b) Upon receipt of reliable and publicly disseminated
25 information that the commission unanimously deems sufficient
26 to indicate a breach of the public trust, except that
27 commission staff may not undertake a formal investigation
28 other than collecting publicly disseminated information before
29 a determination of sufficiency by the commission; or

30 (c) Upon receipt of a written referral of a possible
31 violation of this part or other possible breach of the public

1 trust from the Governor, the Chief Financial Officer, a state
2 attorney, the executive director of the Department of Law
3 Enforcement, or the statewide prosecutor, which the commission
4 unanimously deems sufficient to indicate a breach of the
5 public trust.

6
7 Within 5 days after receipt of a complaint by the commission,
8 or after determination by the commission that the information
9 or referral received is deemed sufficient, a copy shall be
10 transmitted to the alleged violator.

11 (2) The complaint and records relating to the
12 complaint or to any preliminary investigation, or to the
13 commission's determination regarding the information or
14 referral, and held by the commission or its agents or by a
15 Commission on Ethics and Public Trust established by any
16 county defined in s. 125.011(1)⁷ are confidential and exempt
17 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
18 the State Constitution, and any proceeding conducted by the
19 commission or a Commission on Ethics and Public Trust,
20 pursuant to a complaint or preliminary investigation, is
21 exempt from the provisions of s. 286.011, s. 24(b), Art. I of
22 the State Constitution, and s. 120.525, until the complaint is
23 dismissed as legally insufficient, until the alleged violator
24 requests in writing that the such records and proceedings be
25 made public, or until the commission or a Commission on Ethics
26 and Public Trust determines, based on such investigation,
27 whether probable cause exists to believe that a violation has
28 occurred. In no event shall a complaint under this part
29 against a candidate in any general, special, or primary
30 election be filed or any intention of filing such a complaint
31

1 be disclosed on the day of any such election or within the 5
2 days immediately preceding the date of the election.

3 (3) A preliminary investigation shall be undertaken by
4 the commission of each legally sufficient complaint,
5 information, or referral over which the commission has
6 jurisdiction to determine whether there is probable cause to
7 believe that a violation has occurred. If, upon completion of
8 the preliminary investigation, the commission finds no
9 probable cause to believe that this part has been violated or
10 that any other breach of the public trust has been committed,
11 the commission shall dismiss the complaint or proceeding with
12 the issuance of a public report to the complainant and the
13 alleged violator, stating with particularity its reasons for
14 dismissal ~~of the complaint~~. At that time, the complaint, the
15 proceeding, and all materials relating to the complaint shall
16 become a matter of public record. If the commission finds from
17 the preliminary investigation probable cause to believe that
18 this part has been violated or that any other breach of the
19 public trust has been committed, it shall so notify the
20 complainant and the alleged violator in writing. ~~The Such~~
21 notification and all documents made or received in the
22 disposition of the complaint or proceeding shall then become
23 public records. Upon request submitted to the commission in
24 writing, any person who the commission finds probable cause to
25 believe has violated any provision of this part or has
26 committed any other breach of the public trust shall be
27 entitled to a public hearing. ~~The Such~~ person shall be deemed
28 to have waived the right to a public hearing if the request is
29 not received within 14 days following the mailing of the
30 probable cause notification required by this subsection.
31 However, the commission may on its own motion, require a

1 public hearing, may conduct such further investigation as it
2 deems necessary, and may enter into such stipulations and
3 settlements as it finds to be just and in the best interest of
4 the state. The commission is without jurisdiction to, and no
5 respondent may voluntarily or involuntarily, enter into a
6 stipulation or settlement which imposes any penalty,
7 including, but not limited to, a sanction or admonition or any
8 other penalty contained in s. 112.317. Penalties shall be
9 imposed only by the appropriate disciplinary authority as
10 designated in this section.

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

29 (5) If, in cases pertaining to complaints against
30 impeachable officers, upon completion of a full and final
31 investigation by the commission, the commission finds that

1 | there has been a violation of this part or ~~of any provision~~ of
2 | s. 8, Art. II of the State Constitution, and the commission
3 | finds that the violation may constitute grounds for
4 | impeachment, the commission shall forward a copy of the
5 | complaint and its findings by certified mail to the Speaker of
6 | the House of Representatives, who shall refer the complaint to
7 | the appropriate committee for investigation and action which
8 | shall be governed by the rules of the House of
9 | Representatives. It shall be the duty of the committee to
10 | report its final action upon the complaint to the commission
11 | within 90 days of the date of transmittal.

12 | (6) 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 an impeachable officer other than
15 | the Governor, and the commission recommends public censure and
16 | reprimand, forfeiture of a portion of the officer's salary, a
17 | civil penalty, or restitution, the commission shall report its
18 | findings and recommendation of disciplinary action to the
19 | Governor, who has ~~shall have~~ the power to invoke the penalty
20 | provisions of this part.

21 | (7) If the commission finds that there has been a
22 | violation of this part or ~~of any provision~~ of s. 8, Art. II of
23 | the State Constitution by the Governor, and the commission
24 | recommends public censure and reprimand, forfeiture of a
25 | portion of the Governor's salary, a civil penalty, or
26 | restitution, the commission shall report its findings and
27 | recommendation of disciplinary action to the Attorney General,
28 | who has ~~shall have~~ the power to invoke the penalty provisions
29 | of this part.

30 | (8) If, in cases ~~pertaining to complaints~~
31 | those complaints against impeachable officers or members of

1 | the Legislature, upon completion of a full and final
2 | investigation by the commission, the commission finds that
3 | there has been a violation of this part or of s. 8, Art. II of
4 | the State Constitution, it is ~~shall be~~ the duty of the
5 | commission to report its findings and recommend appropriate
6 | action to the proper disciplinary official or body as follows,
7 | and the ~~such~~ official or body has ~~shall have~~ the power to
8 | invoke the penalty provisions of this part, including the
9 | power to order the appropriate elections official to remove a
10 | candidate from the ballot for a violation of s. 112.3145 or s.
11 | 8(a) and (i), Art. II of the State Constitution:

12 | (a) The President of the Senate and the Speaker of the
13 | House of Representatives, jointly, in any case concerning the
14 | Public Counsel, members of the Public Service Commission,
15 | members of the Public Service Commission Nominating Council,
16 | the Auditor General, the director of the Office of Program
17 | Policy Analysis and Government Accountability, or members of
18 | the Legislative Committee on Intergovernmental Relations.

19 | (b) The Supreme Court, in any case concerning an
20 | employee of the judicial branch.

21 | (c) The President of the Senate, in any case
22 | concerning an employee of the Senate; the Speaker of the House
23 | of Representatives, in any case concerning an employee of the
24 | House of Representatives; or the President and the Speaker,
25 | jointly, in any case concerning an employee of a committee of
26 | the Legislature whose members are appointed solely by the
27 | President and the Speaker or in any case concerning an
28 | employee of the Public Counsel, Public Service Commission,
29 | Auditor General, Office of Program Policy Analysis and
30 | Government Accountability, or Legislative Committee on
31 | Intergovernmental Relations.

1 (d) Except as otherwise provided by this part, the
2 Governor, in the case of any other public officer, public
3 employee, former public officer or public employee, candidate,
4 or former candidate.

5 (e) The President of the Senate or the Speaker of the
6 House of Representatives, whichever is applicable, in any case
7 concerning a former member of the Legislature who has violated
8 a provision applicable to former members or whose violation
9 occurred while a member of the Legislature.

10 (9) In addition to reporting its findings to the
11 proper disciplinary body or official, the commission shall
12 report these findings to the state attorney or any other
13 appropriate official or agency having authority to initiate
14 prosecution when violation of criminal law is indicated.

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

1 to the Governor who shall convene a meeting of the Governor,
2 the President of the Senate, the Speaker of the House of
3 Representatives, and the Chief Justice of the Supreme Court to
4 take such final action on the complaint as they shall deem
5 appropriate, consistent with the penalty provisions of this
6 part. Upon request of a majority of the Governor, the
7 President of the Senate, the Speaker of the House of
8 Representatives, and the Chief Justice of the Supreme Court,
9 the special joint committee shall submit a recommendation as
10 to what penalty, if any, should be imposed.

11 (11) Notwithstanding the provisions of subsections
12 (1)-(8), the commission may, at its discretion, dismiss any
13 complaint, information, or referral at any stage of
14 disposition should it determine that the public interest would
15 not be served by proceeding further, in which case the
16 commission shall issue a public report stating with
17 particularity its reasons for the dismissal.

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

20 914.21 Definitions.--As used in ss. 914.22-914.24, the
21 term:

22 (3) "Official investigation" means any investigation
23 instituted by a law enforcement agency or prosecuting officer
24 of the state or a political subdivision of the state or the
25 Commission on Ethics.

26 (4) "Official proceeding" means:

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

29 (b) A proceeding before the Legislature; or

30 (c) A proceeding before a federal agency which is
31 authorized by law.

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

2 Section 14. This act shall take effect October 1,
3 2005.

4
5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 Senate Bill's 1944 and 2008

8 The Committee Substitute combines Senate Bills 1944 and 2008;
9 retains the current fines applicable to late-filed statements
10 of financial interests; and provides an October 1, 2005
11 effective date.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31