

1 to filing a report relating to gifts; revising
2 certain filing deadlines; amending s. 112.3149,
3 F.S.; requiring that a report of honoraria by a
4 person who left office or employment be filed
5 by a specified date; amending s. 112.317, F.S.;
6 authorizing the commission to recommend a
7 restitution penalty be paid to the agency or
8 the General Revenue Fund; authorizing the
9 Attorney General to recover costs for filing
10 suit to collect penalties and fines; deleting
11 provisions imposing a penalty for the
12 disclosure of information concerning a
13 complaint or an investigation; amending s.
14 112.3185, F.S.; providing additional standards
15 for state agency employees relating to
16 procurement of goods and services by a state
17 agency; authorizing an employee whose position
18 was eliminated to engage in certain contractual
19 activities; prohibiting former employees from
20 certain specified activities; amending s.
21 112.321, F.S.; prohibiting an individual who
22 qualifies as a lobbyist from serving on the
23 commission; prohibiting a member of the
24 commission from lobbying any state or local
25 governmental entity; providing exceptions for
26 individuals who are members of the commission
27 on July 1, 2006, until the expiration of their
28 current terms; amending s. 112.3215, F.S.;
29 requiring the commission to adopt a rule
30 detailing the grounds for waiving a fine and
31 the procedures when a lobbyist fails to timely

1 file his or her report; requiring automatic
2 suspension of certain lobbyist registrations if
3 the fine is not timely paid; requiring the
4 commission to provide written notice to
5 affected principals when a lobbyist's
6 registration is automatically suspended and
7 reinstated; amending s. 112.322, F.S.;
8 authorizing travel and per diem expenses for
9 certain witnesses; amending s. 914.21, F.S.;
10 redefining the terms "official investigation"
11 and "official proceeding," for purposes of
12 provisions relating to tampering with
13 witnesses, to include an investigation by or
14 proceeding before the Commission on Ethics;
15 providing effective dates.

16

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

18

19 Section 1. Present subsections (2) and (3) of section
20 104.31, Florida Statutes, are redesignated as subsections (3)
21 and (4), respectively, and a new subsection (2) is added to
22 that section, to read:

23 104.31 Political activities of state, county, and
24 municipal officers and employees.--

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

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

31

1 112.313 Standards of conduct for public officers,
2 employees of agencies, and local government attorneys.--

3 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--A
4 current or former ~~no~~ public officer, employee of an agency, or
5 local government attorney may not ~~shall~~ disclose or use
6 information not available to members of the general public and
7 gained by reason of his or her official position, except for
8 information relating exclusively to governmental practices,
9 for his or her personal gain or benefit or for the personal
10 gain or benefit of any other person or business entity.

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

13 (a)1. It is the intent of the Legislature to implement
14 by statute the provisions of s. 8(e), Art. II of the State
15 Constitution relating to legislators, statewide elected
16 officers, appointed state officers, and designated public
17 employees.

18 2. As used in this paragraph:

19 a. "Employee" means:

20 (I) Any person employed in the executive or
21 legislative branch of government holding a position in the
22 Senior Management Service as defined in s. 110.402 or any
23 person holding a position in the Selected Exempt Service as
24 defined in s. 110.602 or any person having authority over
25 policy or procurement employed by the Department of the
26 Lottery.

27 (II) The Auditor General, the director of the Office
28 of Program Policy Analysis and Government Accountability, the
29 Sergeant at Arms and Secretary of the Senate, and the Sergeant
30 at Arms and Clerk of the House of Representatives.

31

1 (III) The executive director of the Legislative
2 Committee on Intergovernmental Relations and the executive
3 director and deputy executive director of the Commission on
4 Ethics.

5 (IV) An executive director, staff director, or deputy
6 staff director of each joint committee, standing committee, or
7 select committee of the Legislature; an executive director,
8 staff director, executive assistant, analyst, or attorney of
9 the Office of the President of the Senate, the Office of the
10 Speaker of the House of Representatives, the Senate Majority
11 Party Office, Senate Minority Party Office, House Majority
12 Party Office, or House Minority Party Office; or any person,
13 hired on a contractual basis, having the power normally
14 conferred upon such persons, by whatever title.

15 (V) The Chancellor and Vice Chancellors of the State
16 University System; the general counsel to the Board of
17 Regents; and the president, vice presidents, and deans of each
18 state university.

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

22 b. "Appointed state officer" means any member of an
23 appointive board, commission, committee, council, or authority
24 of the executive or legislative branch of state government
25 whose powers, jurisdiction, and authority are not solely
26 advisory and include the final determination or adjudication
27 of any personal or property rights, duties, or obligations,
28 other than those relative to its internal operations.

29 c. "State agency" means an entity of the legislative,
30 executive, or judicial branch of state government over which
31

1 the Legislature exercises plenary budgetary and statutory
2 control.

3 3. No member of the Legislature, appointed state
4 officer, or statewide elected officer shall personally
5 represent another person or entity for compensation before the
6 government body or agency of which the individual was an
7 officer or member for a period of 2 years following vacation
8 of office. No member of the Legislature shall personally
9 represent another person or entity for compensation during his
10 or her term of office before any state agency other than
11 judicial tribunals or in settlement negotiations after the
12 filing of a lawsuit.

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

18 5. Any person violating this paragraph shall be
19 subject to the penalties provided in s. 112.317 and a civil
20 penalty of an amount equal to the compensation which the
21 person receives for the prohibited conduct.

22 6. This paragraph is not applicable to:

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

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

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

31

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

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

7 f. An agency employee who continuously has held until
8 leaving state employment a position that was transferred from
9 the Career Service System to the Selected Exempt Service
10 System under chapter 2001-43, Laws of Florida.

11 (12) EXEMPTION.--The requirements of subsections (3)
12 and (7) as they pertain to persons serving on advisory boards
13 may be waived in a particular instance by the body which
14 appointed the person to the advisory board, upon a full
15 disclosure of the transaction or relationship to the
16 appointing body prior to the waiver and an affirmative vote in
17 favor of waiver by two-thirds vote of that body. In instances
18 in which appointment to the advisory board is made by an
19 individual, waiver may be effected, after public hearing, by a
20 determination by the appointing person and full disclosure of
21 the transaction or relationship by the appointee to the
22 appointing person. In addition, no person shall be held in
23 violation of subsection (3) or subsection (7) if:

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

26 1. The official or the official's spouse or child has
27 in no way participated in the determination of the bid
28 specifications or the determination of the lowest or best
29 bidder;

30 2. The official or the official's spouse or child has
31 in no way used or attempted to use the official's influence to

1 persuade the agency or any personnel thereof to enter such a
2 contract other than by the mere submission of the bid; and

3 3. The official, prior to or at the time of the
4 submission of the bid, has filed a statement with the
5 Commission on Ethics ~~Department of State~~, if the official is a
6 state officer or employee, or with the supervisor of elections
7 of the county in which the agency has its principal office, if
8 the official is an officer or employee of a political
9 subdivision, disclosing the official's interest, or the
10 interest of the official's spouse or child, and the nature of
11 the intended business.

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

19 Section 3. Present subsection (4) of section 112.3144,
20 Florida Statutes, is redesignated as subsection (5) and
21 amended, present subsections (5) and (6) of that section are
22 redesignated as subsections (6) and (7), respectively, and a
23 new subsection (4) is added to that section, to read:

24 112.3144 Full and public disclosure of financial
25 interests.--

26 (4)(a) With respect to reporting, on forms prescribed
27 under this section, assets valued in excess of \$1,000 which
28 the reporting individual holds jointly with another person,
29 the amount reported shall be based on the reporting
30 individual's legal percentage of ownership in the property.
31 However, assets that are held jointly, with right of

1 survivorship, must be reported at 100 percent of the value of
2 the asset. For purposes of this subsection, a reporting
3 individual is deemed to own a percentage of a partnership
4 which is equal to the reporting individual's interest in the
5 capital or equity of the partnership.

6 (b)1. With respect to reporting liabilities valued in
7 excess of \$1,000 on forms prescribed under this section for
8 which the reporting individual is jointly and severally
9 liable, the amount reported shall be based on the reporting
10 individual's percentage of liability rather than the total
11 amount of the liability. However, liability for a debt that is
12 secured by property owned by the reporting individual but that
13 is held jointly, with right of survivorship, must be reported
14 at 100 percent of the total amount owed.

15 2. A separate section of the form shall be created to
16 provide for the reporting of the amounts of joint and several
17 liability of the reporting individual not otherwise reported
18 in subparagraph 1.

19 (5)(4) Forms for compliance with the full and public
20 disclosure requirements of s. 8, Art. II of the State
21 Constitution shall be created by the Commission on Ethics. The
22 commission shall give notice of disclosure deadlines and
23 delinquencies and distribute forms in the following manner:

24 (a) Not later than May 1 of each year, the commission
25 shall prepare a current list of the names and addresses of and
26 the offices held by every person required to file full and
27 public disclosure annually by s. 8, Art. II of the State
28 Constitution, or other state law. In compiling the list, the
29 commission shall be assisted by each unit of government in
30 providing at the request of the commission the name, address,
31

1 and name of the office held by each public official within the
2 respective unit of government.

3 (b) Not later than 30 days before July 1 of each year,
4 the commission shall mail a copy of the form prescribed for
5 compliance with full and public disclosure and a notice of the
6 filing deadline to each person on the mailing list.

7 (c) Not later than 30 days after July 1 of each year,
8 the commission shall determine which persons on the mailing
9 list have failed to file full and public disclosure and shall
10 send delinquency notices by certified mail to such persons.
11 Each notice shall state that a grace period is in effect until
12 September 1 of the current year.

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

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

1 | the mailing list and who is determined to have not filed in a
2 | timely manner will be notified of assessed fines and may
3 | appeal. The rule must provide for and make specific the
4 | following:
5 | 1. The amount of the fine due is based upon the
6 | earliest of the following:
7 | a. When a statement is actually received by the
8 | office.
9 | b. When the statement is postmarked.
10 | c. When the certificate of mailing is dated.
11 | d. When the receipt from an established courier
12 | company is dated.
13 | 2. Upon receipt of the disclosure statement or upon
14 | accrual of the maximum penalty, whichever occurs first, the
15 | commission shall determine the amount of the fine which is due
16 | and shall notify the delinquent person. The notice must
17 | include an explanation of the appeal procedure under
18 | subparagraph 3. Such fine must be paid within 30 days after
19 | the notice of payment due is transmitted, unless appeal is
20 | made to the commission pursuant to subparagraph 3. The moneys
21 | shall be deposited into the General Revenue Fund.
22 | 3. Any reporting person may appeal or dispute a fine,
23 | based upon unusual circumstances surrounding the failure to
24 | file on the designated due date, and may request and is
25 | entitled to a hearing before the commission, which may waive
26 | the fine in whole or in part for good cause shown. Any such
27 | request must be made within 30 days after the notice of
28 | payment due is transmitted. In such a case, the reporting
29 | person must, within the 30-day period, notify the person
30 | designated to review the timeliness of reports in writing of
31 |

1 his or her intention to bring the matter before the
2 commission.

3 (f) Any person subject to the annual filing of full
4 and public disclosure under s. 8, Art. II of the State
5 Constitution, or other state law, whose name is not on the
6 commission's mailing list of persons required to file full and
7 public disclosure is not subject to the fines or penalties
8 provided in this part for failure to file full and public
9 disclosure in any year in which the omission occurred, but
10 nevertheless is required to file the disclosure statement.

11 (g) The notification requirements and fines of this
12 subsection do not apply to candidates or to the first filing
13 required of any person appointed to elective constitutional
14 office or other position required to file full and public
15 disclosure, unless the person's name is on the commission's
16 notification list and the person received notification from
17 the commission. The appointing official shall notify such
18 newly appointed person of the obligation to file full and
19 public disclosure by July 1. The notification requirements and
20 fines of this subsection do not apply to the final filing
21 provided for in subsection (6)~~(5)~~.

22 (h) Notwithstanding any provision of chapter 120, any
23 fine imposed under this subsection which is not waived by
24 final order of the commission and which remains unpaid more
25 than 60 days after the notice of payment due or more than 60
26 days after the commission renders a final order on the appeal
27 must be submitted to the Department of Financial Services as a
28 claim, debt, or other obligation owed to the state, and the
29 department shall assign the collection of such fine to a
30 collection agent as provided in s. 17.20.

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1 Section 4. Paragraph (c) of subsection (6) of section
2 112.3145, Florida Statutes, is amended to read:

3 112.3145 Disclosure of financial interests and clients
4 represented before agencies.--

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

12 (c) Not later than 30 days after July 1 of each year,
13 the commission and each supervisor of elections shall
14 determine which persons required to file a statement of
15 financial interests in their respective offices have failed to
16 do so and shall send delinquency notices by certified mail,
17 return receipt requested, to these ~~such~~ persons. Each notice
18 shall state that a grace period is in effect until September 1
19 of the current year; that no investigative or disciplinary
20 action based upon the delinquency will be taken by the agency
21 head or commission if the statement is filed by September 1 of
22 the current year; that, if the statement is not filed by
23 September 1 of the current year, a fine of \$25 for each day
24 late will be imposed, up to a maximum penalty of \$1,500; for
25 notices sent by a supervisor of elections, that he or she is
26 required by law to notify the commission of the delinquency;
27 and that, if upon the filing of a sworn complaint the
28 commission finds that the person has failed to timely file the
29 statement within 60 days after September 1 of the current
30 year, such person will also be subject to the penalties
31 provided in s. 112.317.

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

3 112.3147 Forms.--

4 ~~(1)~~ All information required to be furnished by ss.
5 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
6 and by s. 8, Art. II of the State Constitution shall be on
7 forms prescribed by the Commission on Ethics.

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

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

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

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

4 112.3148 Reporting and prohibited receipt of gifts by
5 individuals filing full or limited public disclosure of
6 financial interests and by procurement employees.--

7 (6)

8 (d) No later than July 1 of each year, each reporting
9 individual or procurement employee shall file a statement
10 listing each gift having a value in excess of \$100 received by
11 the reporting individual or procurement employee, either
12 directly or indirectly, from a governmental entity or a
13 direct-support organization specifically authorized by law to
14 support a governmental entity. The statement shall list the
15 name of the person providing the gift, a description of the
16 gift, the date or dates on which the gift was given, and the
17 value of the total gifts given during the calendar year for
18 which the report is made. The reporting individual or
19 procurement employee shall attach to the ~~such~~ statement any
20 report received by him or her in accordance with paragraph
21 (c), which report shall become a public record when filed with
22 the statement of the reporting individual or procurement
23 employee. The reporting individual or procurement employee may
24 explain any differences between the report of the reporting
25 individual or procurement employee and the attached reports.
26 The annual report filed by a reporting individual shall be
27 filed with the financial disclosure statement required by
28 either s. 8, Art. II of the State Constitution or s. 112.3145,
29 as applicable to the reporting individual. The annual report
30 filed by a procurement employee shall be filed with the
31 Commission on Ethics. The report filed by a reporting

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

7 (8)(a) Each reporting individual or procurement
8 employee shall file a statement with the Commission on Ethics
9 not later than ~~on~~ the last day of each calendar quarter, for
10 the previous calendar quarter, containing a list of gifts
11 which he or she believes to be in excess of \$100 in value, if
12 any, accepted by him or her, for which compensation was not
13 provided by the donee to the donor within 90 days of receipt
14 of the gift to reduce the value to \$100 or less, except the
15 following:

- 16 1. Gifts from relatives.
- 17 2. Gifts prohibited by subsection (4) or s.
18 112.313(4).
- 19 3. Gifts otherwise required to be disclosed by this
20 section.

21 (b) The statement shall include:

22 1. A description of the gift, the monetary value of
23 the gift, the name and address of the person making the gift,
24 and the dates thereof. If any of these facts, other than the
25 gift description, are unknown or not applicable, the report
26 shall so state.

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

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

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

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

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

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

19 112.3149 Solicitation and disclosure of honoraria.--

20 (6) A reporting individual or procurement employee who
21 receives payment or provision of expenses related to any
22 honorarium event from a person who is prohibited by subsection
23 (4) from paying an honorarium to a reporting individual or
24 procurement employee shall publicly disclose on an annual
25 statement the name, address, and affiliation of the person
26 paying or providing the expenses; the amount of the honorarium
27 expenses; the date of the honorarium event; a description of
28 the expenses paid or provided on each day of the honorarium
29 event; and the total value of the expenses provided to the
30 reporting individual or procurement employee in connection
31 with the honorarium event. The annual statement of honorarium

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

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

23 112.317 Penalties.--

24 (1) Violation of any provision of this part,
25 including, but not limited to, any failure to file any
26 disclosures required by this part or violation of any standard
27 of conduct imposed by this part, or violation of any provision
28 of s. 8, Art. II of the State Constitution, in addition to any
29 criminal penalty or other civil penalty involved, shall, under
30 ~~pursuant to~~ applicable constitutional and statutory
31

1 | procedures, constitute grounds for, and may be punished by,
2 | one or more of the following:

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

4 | 1. Impeachment.

5 | 2. Removal from office.

6 | 3. Suspension from office.

7 | 4. Public censure and reprimand.

8 | 5. Forfeiture of no more than one-third salary per
9 | month for no more than 12 months.

10 | 6. A civil penalty not to exceed \$10,000.

11 | 7. Restitution of any pecuniary benefits received
12 | because of the violation committed. The commission may
13 | recommend that the restitution penalty be paid to the agency
14 | of which the public officer was a member or to the General
15 | Revenue Fund.

16 | (b) In the case of an employee or a person designated
17 | as a public officer by this part who otherwise would be deemed
18 | to be an employee:

19 | 1. Dismissal from employment.

20 | 2. Suspension from employment for not more than 90
21 | days without pay.

22 | 3. Demotion.

23 | 4. Reduction in salary level.

24 | 5. Forfeiture of no more than one-third salary per
25 | month for no more than 12 months.

26 | 6. A civil penalty not to exceed \$10,000.

27 | 7. Restitution of any pecuniary benefits received
28 | because of the violation committed. The commission may
29 | recommend that the restitution penalty be paid to the agency
30 | by which the public employee was employed, or of which the
31 |

1 officer was deemed to be an employee, or to the General
2 Revenue Fund.

3 8. Public censure and reprimand.

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

7 1. Disqualification from being on the ballot.

8 2. Public censure.

9 3. Reprimand.

10 4. A civil penalty not to exceed \$10,000.

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

15 1. Public censure and reprimand.

16 2. A civil penalty not to exceed \$10,000.

17 3. Restitution of any pecuniary benefits received
18 because of the violation committed. The commission may
19 recommend that the restitution penalty be paid to the agency
20 of the public officer or employee or to the General Revenue
21 Fund.

22 (2) In any case in which the commission finds a
23 violation of this part or of s. 8, Art. II of the State
24 Constitution and the proper disciplinary official or body
25 under s. 112.324 imposes ~~recommends~~ a civil penalty or
26 restitution penalty, the Attorney General shall bring a civil
27 action to recover such penalty. No defense may be raised in
28 the civil action to enforce the civil penalty or order of
29 restitution that could have been raised by judicial review of
30 the administrative findings and recommendations of the
31 commission by certiorari to the district court of appeal. The

1 Attorney General shall collect any costs, attorney's fees,
2 expert witness fees, or other costs of collection incurred in
3 bringing the action.

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

13 ~~(6)(7)~~ In any case in which the commission finds
14 probable cause to believe that a complainant has committed
15 perjury in regard to any document filed with, or any testimony
16 given before, the commission, it shall refer such evidence to
17 the appropriate law enforcement agency for prosecution and
18 taxation of costs.

19 ~~(7)(8)~~ In any case in which the commission determines
20 that a person has filed a complaint against a public officer
21 or employee with a malicious intent to injure the reputation
22 of such officer or employee by filing the complaint with
23 knowledge that the complaint contains one or more false
24 allegations or with reckless disregard for whether the
25 complaint contains false allegations of fact material to a
26 violation of this part, the complainant shall be liable for
27 costs plus reasonable attorney's fees incurred in the defense
28 of the person complained against, including the costs and
29 reasonable attorney's fees incurred in proving entitlement to
30 and the amount of costs and fees. If the complainant fails to
31 pay such costs and fees voluntarily within 30 days following

1 such finding by the commission, the commission shall forward
2 such information to the Department of Legal Affairs, which
3 shall bring a civil action in a court of competent
4 jurisdiction to recover the amount of such costs and fees
5 awarded by the commission.

6 Section 9. Section 112.3185, Florida Statutes, is
7 amended to read:

8 112.3185 Additional standards for state agency
9 employees ~~Contractual services~~.--

10 (1) For the purposes of this section:

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

13 (b) "Agency" means any state officer, department,
14 board, commission, or council of the executive or judicial
15 branch of state government and includes the Public Service
16 Commission.

17 (2) An ~~No~~ agency employee who participates through
18 decision, approval, disapproval, recommendation, preparation
19 of any part of a purchase request, influencing the content of
20 any specification or procurement standard, rendering of
21 advice, investigation, or auditing or in any other advisory
22 capacity in the procurement of contractual services may not
23 ~~shall~~ become or be, while an agency employee, the employee of
24 a person contracting with the agency by whom the employee is
25 employed.

26 (3) An ~~No~~ agency employee may not ~~shall~~, after
27 retirement or termination, have or hold any employment or
28 contractual relationship with any business entity other than
29 an agency in connection with any contract in which the agency
30 employee participated personally and substantially through
31 decision, approval, disapproval, recommendation, rendering of

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

11 | (4) An ~~No~~ agency employee may not ~~shall~~, within 2
12 | years after retirement or termination, have or hold any
13 | employment or contractual relationship with any business
14 | entity other than an agency in connection with any contract
15 | for contractual services which was within his or her
16 | responsibility while an employee. If the agency employee's
17 | position is eliminated and his or her duties are performed by
18 | the business entity, this subsection may be waived by the
19 | agency head through prior written approval for a particular
20 | employee if the agency head determines that the best interests
21 | of the state will be served thereby.

22 | (5) The sum of money paid to a former agency employee
23 | during the first year after the cessation of his or her
24 | responsibilities, by the agency with whom he or she was
25 | employed, for contractual services provided to the agency,
26 | shall not exceed the annual salary received on the date of
27 | cessation of his or her responsibilities. ~~The provisions of~~
28 | This subsection may be waived by the agency head for a
29 | particular contract if the agency head determines that such
30 | waiver will result in significant time or cost savings for the
31 | state.

1 (6) An agency employee may not, after retirement or
2 termination, represent or advise for compensation another
3 person or entity, except the state, in any matter in which the
4 employee participated personally and substantially in his or
5 her official capacity through decision, approval, disapproval,
6 recommendation, rendering of advice, investigation, or
7 otherwise while an employee. The term "matter" includes any
8 judicial or other proceeding, application, request for a
9 ruling, or other determination, contract, claim, controversy,
10 investigation, charge, accusation, arrest, or other particular
11 action involving a specific party or parties.

12 ~~(7)(6)~~ An ~~no~~ agency employee acting in an official
13 capacity may not ~~shall~~ directly or indirectly procure
14 contractual services for his or her own agency from any
15 business entity of which a relative is an officer, partner,
16 director, or proprietor or in which the ~~such~~ officer or
17 employee or his or her spouse or child, or any combination of
18 them, has a material interest.

19 ~~(8)(7)~~ A violation of any provision of this section is
20 punishable in accordance with s. 112.317.

21 ~~(9)(8)~~ This section is not applicable to any employee
22 of the Public Service Commission who was so employed on or
23 before December 31, 1994.

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

26 112.321 Membership, terms; travel expenses; staff.--

27 (1) The commission shall be composed of nine members.
28 Five of these members shall be appointed by the Governor, no
29 more than three of whom shall be from the same political
30 party, subject to confirmation by the Senate. One member
31 appointed by the Governor shall be a former city or county

1 official and may be a former member of a local planning or
2 zoning board which has only advisory duties. Two members
3 shall be appointed by the Speaker of the House of
4 Representatives, and two members shall be appointed by the
5 President of the Senate. Neither the Speaker of the House of
6 Representatives nor the President of the Senate shall appoint
7 more than one member from the same political party. Of the
8 nine members of the Commission, no more than five members
9 shall be from the same political party at any one time. No
10 member may hold any public employment. An individual who
11 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215
12 or pursuant to any local government charter or ordinance may
13 not serve as a member of the commission, except that this
14 prohibition does not apply to an individual who is a member of
15 the commission on July 1, 2006, until the expiration of his or
16 her current term. A member of the commission may not lobby any
17 state or local governmental entity as provided in s. 11.045 or
18 s. 112.3215 or as provided by any local government charter or
19 ordinance, except that this prohibition does not apply to an
20 individual who is a member of the commission on July 1, 2006,
21 until the expiration of his or her current term. All members
22 shall serve 2-year terms. ~~A No~~ member ~~may not shall~~ serve more
23 than two full terms in succession. Any member of the
24 commission may be removed for cause by majority vote of the
25 Governor, the President of the Senate, the Speaker of the
26 House of Representatives, and the Chief Justice of the Supreme
27 Court.

28 Section 11. Paragraph (e) of subsection (5) of section
29 112.3215, Florida Statutes, as amended by section 5 of chapter
30 2005-359, Laws of Florida, and section 1 of chapter 2005-361,
31 Laws of Florida, is amended to read:

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

4 (5)

5 (e) The commission shall provide by rule the grounds
6 for waiving a fine, the procedures ~~a procedure~~ by which a
7 lobbying firm that fails to timely file a report shall be
8 notified and assessed fines, and the procedure for appealing
9 the fines. 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 lobbying firm as to the failure to
13 timely file the report and that a fine is being assessed for
14 each late day. The fine shall be \$50 per day per report for
15 each 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 lobbying
31 firm the first time any reports for which the lobbying firm is

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

7 5. Any lobbying firm may appeal or dispute a fine,
8 based upon unusual circumstances surrounding the failure to
9 file on the designated due date, and may request and shall be
10 entitled to a hearing before the commission, which shall have
11 the authority to waive the fine in whole or in part for good
12 cause shown. Any such request shall be made within 30 days
13 after the notice of payment due is transmitted by the Lobbyist
14 Registration Office. In such case, the lobbying firm shall,
15 within the 30-day period, notify the person designated to
16 review the timeliness of reports in writing of his or her
17 intention to 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 lobbying firm to file a report after notice or of the failure
21 of a lobbying firm to pay the fine imposed. All lobbyist
22 registrations for lobbyists who are partners, owners,
23 officers, or employees of a lobbying firm that fails to timely
24 pay a fine are automatically suspended until the fine is paid
25 or waived, and the commission shall promptly notify all
26 affected principals of each suspension and each reinstatement.

27 7. Notwithstanding any provision of chapter 120, any
28 fine imposed under this subsection that is not waived by final
29 order of the commission and that remains unpaid more than 60
30 days after the notice of payment due or more than 60 days
31 after the commission renders a final order on the lobbying

1 firm's appeal shall be collected by the Department of
2 Financial Services as a claim, debt, or other obligation owed
3 to the state, and the department may assign the collection of
4 such fine to a collection agent as provided in s. 17.20.

5 Section 12. Effective April 1, 2007, paragraph (d) of
6 subsection (5) of section 112.3215, Florida Statutes, as
7 amended by this act, section 6 of chapter 2005-359, Laws of
8 Florida, and section 1 of chapter 2005-361, Laws of Florida,
9 is amended to read:

10 112.3215 Lobbying before the executive branch or the
11 Constitution Revision Commission; registration and reporting;
12 investigation by commission.--

13 (5)

14 (d) The commission shall provide by rule the grounds
15 for waiving a fine, the procedures ~~a procedure~~ by which a
16 lobbying firm that fails to timely file a report shall be
17 notified and assessed fines, and the procedure for appealing
18 the fines. The rule shall provide for the following:

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

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

28 a. When a report is actually received by the lobbyist
29 registration and reporting office.

30 b. When the electronic receipt issued pursuant to s.
31 112.32155 is dated.

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

6 4. A fine shall not be assessed against a lobbying
7 firm the first time any reports for which the lobbying firm is
8 responsible are not timely filed. However, to receive the
9 one-time fine waiver, all reports for which the lobbying firm
10 is responsible must be filed within 30 days after the notice
11 that any reports have not been timely filed is transmitted by
12 the Lobbyist Registration Office. A fine shall be assessed for
13 any subsequent late-filed reports.

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

25 6. The person designated to review the timeliness of
26 reports shall notify the commission of the failure of a
27 lobbying firm to file a report after notice or of the failure
28 of a lobbying firm to pay the fine imposed. All lobbyist
29 registrations for lobbyists who are partners, owners,
30 officers, or employees of a lobbying firm that fails to timely
31 pay a fine are automatically suspended until the fine is paid

1 or waived, and the commission shall promptly notify all
2 affected principals of each suspension and each reinstatement.

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

12 Section 13. Subsection (4) of section 112.322, Florida
13 Statutes, is amended to read:

14 112.322 Duties and powers of commission.--

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

1 court as contempt. Witnesses shall be paid mileage and
2 witnesses fees as authorized for witnesses in civil cases,
3 except that a witness who is required to travel outside the
4 county of his or her residence to testify is entitled to per
5 diem and travel expenses at the same rate provided for state
6 employees under s. 112.061, to be paid after the witness
7 appears.

8 Section 14. Subsections (3) and (4) of section 914.21,
9 Florida Statutes, are amended to read:

10 914.21 Definitions.--As used in ss. 914.22-914.24, the
11 term:

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

16 (4) "Official proceeding" means:

17 (a) A proceeding before a judge or court or a grand
18 jury;

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

20 (c) A proceeding before a federal agency that ~~which~~ is
21 authorized by law; ~~or-~~

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

23 Section 15. This act shall take effect October 1,
24 2006.

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SENATE SUMMARY

Prohibits employees of the state and its political subdivisions from participating in a political campaign during certain time periods. Redefines the term "employee" to include certain other-personal-services employees for certain postemployment activities. Provides an exemption to a person who, after service on an advisory board, files a statement with the Commission on Ethics relating to a bid or submission. Requires that a delinquency notice be sent to certain officeholders by certified mail, return receipt requested. Prescribes reporting requirements for certain reports by reporting individuals or procurement employees. Permits the Commission on Ethics to recommend where a restitution penalty may be paid. Authorizes the Attorney General to recover costs and fees. Provides additional standards for state agency employees relating to procurement of goods and services by a state agency. Authorizes an employee whose position is eliminated to engage in certain contractual activities. Requires automatic suspension of a lobbyist's registration if a fine is not timely paid. Requires principals to be notified of such suspensions. Provides applicability of certain provisions relating to tampering with witnesses to investigations by and proceedings before the Commission on Ethics. (See bill for details.)