

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

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

13

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

15

16 Section 1. Present subsections (2) and (3) of section
17 104.31, Florida Statutes, are redesignated as subsections (3)
18 and (4), respectively, and a new subsection (2) is added to
19 that section, to read:

20

21 104.31 Political activities of state, county, and
municipal officers and employees.--

22

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

25

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

28

29 112.313 Standards of conduct for public officers,
employees of agencies, and local government attorneys.--

30

31 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--A
current or former ~~no~~ public officer, employee of an agency, or

1 | local government attorney ~~may not shall~~ disclose or use
2 | information not available to members of the general public and
3 | gained by reason of his or her official position, except for
4 | information relating exclusively to governmental practices,
5 | for his or her personal gain or benefit or for the personal
6 | gain or benefit of any other person or business entity.

7 | (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT
8 | FOR LEGISLATORS AND LEGISLATIVE EMPLOYEES.--

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

14 | 2. As used in this paragraph:

15 | a. "Employee" means:

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

23 | (II) The Auditor General, the director of the Office
24 | of Program Policy Analysis and Government Accountability, the
25 | Sergeant at Arms and Secretary of the Senate, and the Sergeant
26 | at Arms and Clerk of the House of Representatives.

27 | (III) The executive director of the Legislative
28 | Committee on Intergovernmental Relations and the executive
29 | director and deputy executive director of the Commission on
30 | Ethics.

31 |

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

11 (V) The Chancellor and Vice Chancellors of the State
12 University System; the general counsel to the Board of
13 Regents; and the president, vice presidents, and deans of each
14 state university.

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

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

25 c. "State agency" means an entity of the legislative,
26 executive, or judicial branch of state government over which
27 the Legislature exercises plenary budgetary and statutory
28 control.

29 3. No member of the Legislature, appointed state
30 officer, or statewide elected officer shall personally
31 represent another person or entity for compensation before the

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

8 4. An ~~no~~ agency employee, including an agency employee
9 who was employed on July 1, 2001, in a Career Service System
10 position that was transferred to the Selected Exempt Service
11 System under chapter 2001-43, Laws of Florida, may not ~~shall~~
12 personally represent another person or entity for compensation
13 before the agency with which he or she was employed for a
14 period of 2 years following vacation of position, unless
15 employed by another agency of state government.

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

20 6. This paragraph is not applicable to:

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

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

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

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

1 e. Any appointed state officer whose term of office
2 began before January 1, 1995, unless reappointed to that
3 office on or after January 1, 1995.

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

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

19 1. The official or the official's spouse or child has
20 in no way participated in the determination of the bid
21 specifications or the determination of the lowest or best
22 bidder;

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

27 3. The official, prior to or at the time of the
28 submission of the bid, has filed a statement with the
29 Commission on Ethics ~~Department of State~~, if the official is a
30 state officer or employee, or with the supervisor of elections
31 of the county in which the agency has its principal office, if

1 the official is an officer or employee of a political
2 subdivision, disclosing the official's interest, or the
3 interest of the official's spouse or child, and the nature of
4 the intended business.

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

12 Section 3. Present subsection (4) of section 112.3144,
13 Florida Statutes, is redesignated as subsection (5) and
14 amended, present subsections (5) and (6) of that section are
15 redesignated as subsections (6) and (7), respectively, and a
16 new subsection (4) is added to that section, to read:

17 112.3144 Full and public disclosure of financial
18 interests.--

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

30 (b)1. With respect to reporting liabilities valued in
31 excess of \$1,000 on forms prescribed under this section for

1 which the reporting individual is jointly and severally
2 liable, the amount reported shall be based on the reporting
3 individual's percentage of liability rather than the total
4 amount of the liability. However, liability for a debt that is
5 secured by property owned by the reporting individual but that
6 is held jointly, with right of survivorship, must be reported
7 at 100 percent of the total amount owed.

8 2. A separate section of the form shall be created to
9 provide for the reporting of the amounts of joint and several
10 liability of the reporting individual not otherwise reported
11 in subparagraph 1.

12 ~~(5)(4)~~ Forms for compliance with the full and public
13 disclosure requirements of s. 8, Art. II of the State
14 Constitution shall be created by the Commission on Ethics. The
15 commission shall give notice of disclosure deadlines and
16 delinquencies and distribute forms in the following manner:

17 (a) Not later than May 1 of each year, the commission
18 shall prepare a current list of the names and addresses of and
19 the offices held by every person required to file full and
20 public disclosure annually by s. 8, Art. II of the State
21 Constitution, or other state law. In compiling the list, the
22 commission shall be assisted by each unit of government in
23 providing at the request of the commission the name, address,
24 and name of the office held by each public official within the
25 respective unit of government.

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

30 (c) Not later than 30 days after July 1 of each year,
31 the commission shall determine which persons on the mailing

1 list have failed to file full and public disclosure and shall
2 send delinquency notices by certified mail to such persons.
3 Each notice shall state that a grace period is in effect until
4 September 1 of the current year.

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

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

28 1. The amount of the fine due is based upon the
29 earliest of the following:

30 a. When a statement is actually received by the
31 office.

1 b. When the statement 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 2. Upon receipt of the disclosure statement or upon
6 accrual of the maximum penalty, whichever occurs first, the
7 commission shall determine the amount of the fine which is due
8 and shall notify the delinquent person. The notice must
9 include an explanation of the appeal procedure under
10 subparagraph 3. Such fine must be paid within 30 days after
11 the notice of payment due is transmitted, unless appeal is
12 made to the commission pursuant to subparagraph 3. The moneys
13 shall be deposited into the General Revenue Fund.
14 3. Any reporting person 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 is
17 entitled to a hearing before the commission, which may waive
18 the fine in whole or in part for good cause shown. Any such
19 request must be made within 30 days after the notice of
20 payment due is transmitted. In such a case, the reporting
21 person must, within the 30-day period, notify the person
22 designated to review the timeliness of reports in writing of
23 his or her intention to bring the matter before the
24 commission.
25 (f) Any person subject to the annual filing of full
26 and public disclosure under s. 8, Art. II of the State
27 Constitution, or other state law, whose name is not on the
28 commission's mailing list of persons required to file full and
29 public disclosure is not subject to the fines or penalties
30 provided in this part for failure to file full and public
31

1 disclosure in any year in which the omission occurred, but
2 nevertheless is required to file the disclosure statement.

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

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

23 Section 4. Paragraph (c) of subsection (6) of section
24 112.3145, Florida Statutes, is amended to read:

25 112.3145 Disclosure of financial interests and clients
26 represented before agencies.--

27 (6) Forms for compliance with the disclosure
28 requirements of this section and a current list of persons
29 subject to disclosure shall be created by the commission and
30 provided to each supervisor of elections. The commission and
31 each supervisor of elections shall give notice of disclosure

1 deadlines and delinquencies and distribute forms in the
2 following manner:

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

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

25 112.3147 Forms.--

26 ~~(1)~~ All information required to be furnished by ss.
27 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
28 and by s. 8, Art. II of the State Constitution shall be on
29 forms prescribed by the Commission on Ethics.

30 ~~(2)(a) With respect to reporting assets valued in~~
31 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144~~

1 ~~which the reporting individual holds jointly with another~~
2 ~~person, the amount reported shall be based on the reporting~~
3 ~~individual's legal percentage of ownership in the property,~~
4 ~~except that assets held jointly with the reporting~~
5 ~~individual's spouse shall be reported at 100 percent of the~~
6 ~~value of the asset. For purposes of this subsection, a~~
7 ~~reporting individual is deemed to own an interest in a~~
8 ~~partnership which corresponds to the reporting individual's~~
9 ~~interest in the capital or equity of the partnership.~~

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

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

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

26 112.3148 Reporting and prohibited receipt of gifts by
27 individuals filing full or limited public disclosure of
28 financial interests and by procurement employees.--

29 (6)

30 (d) No later than July 1 of each year, each reporting
31 individual or procurement employee shall file a statement

1 listing each gift having a value in excess of \$100 received by
2 the reporting individual or procurement employee, either
3 directly or indirectly, from a governmental entity or a
4 direct-support organization specifically authorized by law to
5 support a governmental entity. The statement shall list the
6 name of the person providing the gift, a description of the
7 gift, the date or dates on which the gift was given, and the
8 value of the total gifts given during the calendar year for
9 which the report is made. The reporting individual or
10 procurement employee shall attach to ~~the such~~ statement any
11 report received by him or her in accordance with paragraph
12 (c), which report shall become a public record when filed with
13 the statement of the reporting individual or procurement
14 employee. The reporting individual or procurement employee may
15 explain any differences between the report of the reporting
16 individual or procurement employee and the attached reports.
17 The annual report filed by a reporting individual shall be
18 filed with the financial disclosure statement required by
19 either s. 8, Art. II of the State Constitution or s. 112.3145,
20 as applicable to the reporting individual. The annual report
21 filed by a procurement employee shall be filed with the
22 Commission on Ethics. The report filed by a reporting
23 individual or procurement employee who left office or
24 employment during the calendar year covered by the report
25 shall be filed by July 1 of the year after leaving office or
26 employment at the same location as his or her final financial
27 disclosure statement or, in the case of a former procurement
28 employee, with the Commission on Ethics.

29 (8)(a) Each reporting individual or procurement
30 employee shall file a statement with the Commission on Ethics
31 not later than ~~on~~ the last day of each calendar quarter, for

1 the previous calendar quarter, containing a list of gifts
2 which he or she believes to be in excess of \$100 in value, if
3 any, accepted by him or her, for which compensation was not
4 provided by the donee to the donor within 90 days of receipt
5 of the gift to reduce the value to \$100 or less, except the
6 following:

- 7 1. Gifts from relatives.
- 8 2. Gifts prohibited by subsection (4) or s.
9 112.313(4).

10 3. Gifts otherwise required to be disclosed by this
11 section.

12 (b) The statement shall include:

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

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

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

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

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

1 from an established courier company, which bears a date on or
2 before the due date constitutes proof of mailing in a timely
3 manner.

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

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

10 112.3149 Solicitation and disclosure of honoraria.--

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

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

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

14 112.317 Penalties.--

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

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

- 25 1. Impeachment.
- 26 2. Removal from office.
- 27 3. Suspension from office.
- 28 4. Public censure and reprimand.
- 29 5. Forfeiture of no more than one-third salary per
30 month for no more than 12 months.
- 31 6. A civil penalty not to exceed \$10,000.

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

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

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

16 6. A civil penalty not to exceed \$10,000.
17 7. 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 by which the public employee was employed, or of which the
21 officer was deemed to be an employee, or to the General
22 Revenue Fund.

23 8. Public censure and reprimand.

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

- 27 1. Disqualification from being on the ballot.
28 2. Public censure.
29 3. Reprimand.
30 4. A civil penalty not to exceed \$10,000.
31

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

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

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

25 ~~(6) Any person who willfully discloses, or permits to~~
26 ~~be disclosed, his or her intention to file a complaint, the~~
27 ~~existence or contents of a complaint which has been filed with~~
28 ~~the commission, or any document, action, or proceeding in~~
29 ~~connection with a confidential preliminary investigation of~~
30 ~~the commission, before such complaint, document, action, or~~
31 ~~proceeding becomes a public record as provided herein commits~~

1 ~~a misdemeanor of the first degree, punishable as provided in~~
2 ~~s. 775.082 or s. 775.083.~~

3 ~~(6)(7)~~ In any case in which the commission finds
4 probable cause to believe that a complainant has committed
5 perjury in regard to any document filed with, or any testimony
6 given before, the commission, it shall refer such evidence to
7 the appropriate law enforcement agency for prosecution and
8 taxation of costs.

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

27 Section 9. Section 112.3185, Florida Statutes, is
28 amended to read:

29 112.3185 Additional standards for state agency
30 employees ~~Contractual services~~.--

31 (1) For the purposes of this section:

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

3 (b) "Agency" means any state officer, department,
4 board, commission, or council of the executive or judicial
5 branch of state government and includes the Public Service
6 Commission.

7 (2) An ~~No~~ agency employee who participates through
8 decision, approval, disapproval, recommendation, preparation
9 of any part of a purchase request, influencing the content of
10 any specification or procurement standard, rendering of
11 advice, investigation, or auditing or in any other advisory
12 capacity in the procurement of contractual services may not
13 ~~shall~~ become or be, while an agency employee, the employee of
14 a person contracting with the agency by whom the employee is
15 employed.

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

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

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

22 (6) ~~An~~ ~~No~~ agency employee acting in an official
23 capacity ~~may not shall~~ directly or indirectly procure
24 contractual services for his or her own agency from any
25 business entity of which a relative is an officer, partner,
26 director, or proprietor or in which ~~the~~ ~~such~~ officer or
27 employee or his or her spouse or child, or any combination of
28 them, has a material interest.

29 (7) A violation of any provision of this section is
30 punishable in accordance with s. 112.317.

31

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

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

6 112.321 Membership, terms; travel expenses; staff.--

7 (1) The commission shall be composed of nine members.
8 Five of these members shall be appointed by the Governor, no
9 more than three of whom shall be from the same political
10 party, subject to confirmation by the Senate. One member
11 appointed by the Governor shall be a former city or county
12 official and may be a former member of a local planning or
13 zoning board which has only advisory duties. Two members
14 shall be appointed by the Speaker of the House of
15 Representatives, and two members shall be appointed by the
16 President of the Senate. Neither the Speaker of the House of
17 Representatives nor the President of the Senate shall appoint
18 more than one member from the same political party. Of the
19 nine members of the Commission, no more than five members
20 shall be from the same political party at any one time. No
21 member may hold any public employment. An individual who
22 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215
23 or pursuant to any local government charter or ordinance may
24 not serve as a member of the commission, except that this
25 prohibition does not apply to an individual who is a member of
26 the commission on July 1, 2006, until the expiration of his or
27 her current term. A member of the commission may not lobby any
28 state or local governmental entity as provided in s. 11.045 or
29 s. 112.3215 or as provided by any local government charter or
30 ordinance, except that this prohibition does not apply to an
31 individual who is a member of the commission on July 1, 2006,

1 until the expiration of his or her current term. All members
2 shall serve 2-year terms. ~~A No~~ member may not ~~shall~~ serve more
3 than two full terms in succession. Any member of the
4 commission may be removed for cause by majority vote of the
5 Governor, the President of the Senate, the Speaker of the
6 House of Representatives, and the Chief Justice of the Supreme
7 Court.

8 Section 11. Paragraph (e) of subsection (5) of section
9 112.3215, Florida Statutes, as amended by section 5 of chapter
10 2005-359, Laws of Florida, and section 1 of chapter 2005-361,
11 Laws of Florida, is amended to read:

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

15 (5)

16 (e) The commission shall provide by rule the grounds
17 for waiving a fine, the procedures ~~a procedure~~ by which a
18 lobbying firm that fails to timely file a report shall be
19 notified and assessed fines, and the procedure for appealing
20 the fines. 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 lobbying firm as to the failure to
24 timely file the report and that a fine is being assessed for
25 each late day. The fine shall be \$50 per day per report for
26 each 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 lobbying
11 firm the first time any reports for which the lobbying firm is
12 responsible are not timely filed. However, to receive the
13 one-time fine waiver, all reports for which the lobbying firm
14 is responsible must be filed within 30 days after the notice
15 that any reports have not been timely filed is transmitted by
16 the Lobbyist Registration Office. A fine shall be assessed for
17 any subsequent late-filed reports.

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

1 of a lobbying firm to pay the fine imposed. All lobbyist
2 registrations for lobbyists who are partners, owners,
3 officers, or employees of a lobbying firm that fails to timely
4 pay a fine are automatically suspended until the fine is paid
5 or waived, and the commission shall promptly notify all
6 affected principals of each suspension and each reinstatement.

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

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

21 112.3215 Lobbying before the executive branch or the
22 Constitution Revision Commission; registration and reporting;
23 investigation by commission.--

24 (5)

25 (d) The commission shall provide by rule the grounds
26 for waiving a fine, the procedures ~~a procedure~~ by which a
27 lobbying firm that fails to timely file a report shall be
28 notified and assessed fines, and the procedure for appealing
29 the fines. The rule shall provide for the following:

30 1. Upon determining that the report is late, the
31 person designated to review the timeliness of reports shall

1 immediately notify the lobbying firm as to the failure to
2 timely file the report and that a fine is being assessed for
3 each late day. The fine shall be \$50 per day per report for
4 each late day up to a maximum of \$5,000 per late report.

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

8 a. When a report is actually received by the lobbyist
9 registration and reporting office.

10 b. When the electronic receipt issued pursuant to s.
11 112.32155 is dated.

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

17 4. A fine shall not be assessed against a lobbying
18 firm the first time any reports for which the lobbying firm is
19 responsible are not timely filed. However, to receive the
20 one-time fine waiver, all reports for which the lobbying firm
21 is responsible must be filed within 30 days after the notice
22 that any reports have not been timely filed is transmitted by
23 the Lobbyist Registration Office. A fine shall be assessed for
24 any subsequent late-filed reports.

25 5. Any lobbying firm may appeal or dispute a fine,
26 based upon unusual circumstances surrounding the failure to
27 file on the designated due date, and may request and shall be
28 entitled to a hearing before the commission, which shall have
29 the authority to waive the fine in whole or in part for good
30 cause shown. Any such request shall be made within 30 days
31 after the notice of payment due is transmitted by the Lobbyist

1 Registration Office. In such case, the lobbying firm shall,
2 within the 30-day period, notify the person designated to
3 review the timeliness of reports in writing of his or her
4 intention to bring the matter before the commission.

5 6. The person designated to review the timeliness of
6 reports shall notify the commission of the failure of a
7 lobbying firm to file a report after notice or of the failure
8 of a lobbying firm to pay the fine imposed. All lobbyist
9 registrations for lobbyists who are partners, owners,
10 officers, or employees of a lobbying firm that fails to timely
11 pay a fine are automatically suspended until the fine is paid
12 or waived, and the commission shall promptly notify all
13 affected principals of each suspension and each reinstatement.

14 7. Notwithstanding any provision of chapter 120, any
15 fine imposed under this subsection that is not waived by final
16 order of the commission and that remains unpaid more than 60
17 days after the notice of payment due or more than 60 days
18 after the commission renders a final order on the lobbying
19 firm's appeal shall be collected by the Department of
20 Financial Services as a claim, debt, or other obligation owed
21 to the state, and the department may assign the collection of
22 such fine to a collection agent as provided in s. 17.20.

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

25 112.322 Duties and powers of commission.--

26 (4) The commission has the power to subpoena, audit,
27 and investigate. The commission may subpoena witnesses and
28 compel their attendance and testimony, administer oaths and
29 affirmations, take evidence, and require by subpoena the
30 production of any books, papers, records, or other items
31 relevant to the performance of the duties of the commission or

1 | to the exercise of its powers. The commission may delegate to
2 | its investigators the authority to administer oaths and
3 | affirmations. The commission may delegate the authority to
4 | issue subpoenas to its chair, and may authorize its employees
5 | to serve any subpoena issued under this section. In the case
6 | of a refusal to obey a subpoena issued to any person, the
7 | commission may make application to any circuit court of this
8 | state which shall have jurisdiction to order the witness to
9 | appear before the commission and to produce evidence, if so
10 | ordered, or to give testimony touching on the matter in
11 | question. Failure to obey the order may be punished by the
12 | court as contempt. Witnesses shall be paid mileage and
13 | witnesses fees as authorized for witnesses in civil cases,
14 | except that a witness who is required to travel outside the
15 | county of his or her residence to testify is entitled to per
16 | diem and travel expenses at the same rate provided for state
17 | employees under s. 112.061, to be paid after the witness
18 | appears.

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

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

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

27 | (4) "Official proceeding" means:

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

30 | (b) A proceeding before the Legislature; ~~or~~

31 |

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

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

4 Section 15. This act shall take effect October 1,
5 2006.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 2000

10 The Committee Substitute clarifies that the two-year
11 "revolving door" prohibition is applicable to agency employees
12 whose positions were transferred to the Selected Exempt
13 Service System from the Career Service System under chapter
14 2001-43, Laws of Florida. It also removes language that would
15 prohibit agency employees from leaving government and then
16 switching sides to represent for compensation a client before
17 their former agency in connection with the same matter in
18 which they participated "personally and substantially" while
19 an agency employee.
20
21
22
23
24
25
26
27
28
29
30
31