

By Senator Posey

24-1594C-06

1 A bill to be entitled
2 An act relating to disclosures by public
3 officers and employees; creating s. 112.3152,
4 F.S.; requiring persons who file disclosure of
5 financial interests, gifts, and honoraria with
6 the Commission on Ethics to do so
7 electronically on a filing system developed by
8 the commission; providing requirements for the
9 system; providing for rules; amending ss.
10 112.3144, F.S., relating to disclosure of
11 financial interests, and 112.3145, F.S.,
12 relating to disclosure of financial interests
13 and clients represented before agencies;
14 conforming those sections to changes made by
15 the act; providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Section 112.3152, Florida Statutes, is
20 created to read:

21 112.3152 Electronic filing of statements.--

22 (1) As used in this section, the term "electronic
23 filing system" means an Internet system for recording and
24 reporting public information filed with and maintained by the
25 commission by reporting period.

26 (2) Each individual who files statements or reports in
27 accordance with s. 112.3144, s. 112.3145, s. 112.3148, s.
28 112.3149, or s. 8, Art. II of the State Constitution with the
29 commission must file such statements or reports with the
30 commission by means of the commission's electronic filing
31 system.

1 (3) Statements or reports filed pursuant to this
2 section must be completed and filed through the electronic
3 filing system no later than midnight of the day designated.
4 Statements not filed by midnight of the day designated are
5 late-filed and are subject to the penalties under s. 112.317,
6 s. 112.3144, or s. 112.3145, as applicable.

7 (4) Each statement or report filed pursuant to this
8 section and filed in accordance with s. 112.3144 or s.
9 112.3148(8) is considered to be given under oath by the
10 individual. Each individual who files a statement or report
11 pursuant to this section is subject to s. 112.317, s.
12 112.3144, s. 112.3145, s. 112.3148, or s. 112.3149, as
13 applicable. Persons given a secure sign-on to the electronic
14 filing system are responsible for protecting it from
15 disclosure and are responsible for all filings using such
16 credentials, unless they have notified the commission that
17 their credentials have been compromised.

18 (5) The electronic filing system developed by the
19 commission must:

20 (a) Be based on access by means of the Internet.

21 (b) Be accessible by anyone with Internet access using
22 standard web-browsing software.

23 (c) Provide for direct entry of information and may
24 provide for the upload of such information from software
25 certified by the commission.

26 (d) Provide a method that prevents unauthorized access
27 to electronic filing system functions.

28 (6) The commission shall adopt rules pursuant to ss.
29 120.54 and 112.322(9) to administer this section and provide
30 for the statements or reports required to be filed pursuant to
31 this section. Such rules must, at a minimum, provide:

1 (a) Alternate filing procedures in case the
2 commission's electronic filing system is not operable.

3 (b) For the issuance of an electronic receipt to the
4 person submitting the statement or report indicating the date
5 and time the statement or report was filed and verifying that
6 the statement or report has been filed.

7 (c) For the collection of information, if necessary,
8 to issue an electronic receipt.

9 (7) The commission shall make available on the
10 Internet in an easily understood and accessible format all
11 statements and reports filed with the commission in accordance
12 with this section.

13 Section 2. Subsection (4) of section 112.3144, Florida
14 Statutes, is amended to read:

15 112.3144 Full and public disclosure of financial
16 interests.--

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

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

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

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

11 (d) Statements must be filed by electronic means as
12 provided in s. 112.3152 ~~not later than 5 p.m. of the due date.~~
13 ~~However, any statement that is postmarked by the United States~~
14 ~~Postal Service by midnight of the due date is deemed to have~~
15 ~~been filed in a timely manner, and a certificate of mailing~~
16 ~~obtained from and dated by the United States Postal Service at~~
17 ~~the time of the mailing, or a receipt from an established~~
18 ~~courier company which bears a date on or before the due date,~~
19 ~~constitutes proof of mailing in a timely manner.~~

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

1 appeal. The rule must provide for and make specific the
2 following:
3 1. The amount of the fine due is based upon the
4 earliest of the following:
5 a. When a statement is actually received by the
6 office.
7 b. When the electronic receipt issued pursuant to s.
8 112.3152 is dated ~~statement is postmarked.~~
9 ~~c. When the certificate of mailing is dated.~~
10 ~~d. When the receipt from an established courier~~
11 ~~company is dated.~~
12 2. Upon receipt of the disclosure statement or upon
13 accrual of the maximum penalty, whichever occurs first, the
14 commission shall determine the amount of the fine which is due
15 and shall notify the delinquent person. The notice must
16 include an explanation of the appeal procedure under
17 subparagraph 3. Such fine must be paid within 30 days after
18 the notice of payment due is transmitted, unless appeal is
19 made to the commission pursuant to subparagraph 3. The moneys
20 shall be deposited into the General Revenue Fund.
21 3. Any reporting person may appeal or dispute a fine,
22 based upon unusual circumstances surrounding the failure to
23 file on the designated due date, and may request and is
24 entitled to a hearing before the commission, which may waive
25 the fine in whole or in part for good cause shown. Any such
26 request must be made within 30 days after the notice of
27 payment due is transmitted. In such a case, the reporting
28 person must, within the 30-day period, notify the person
29 designated to review the timeliness of reports in writing of
30 his or her intention to bring the matter before the
31 commission.

1 Section 3. Subsection (6) of section 112.3145, Florida
2 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 each supervisor of elections
11 shall distribute forms in the following manner:

12 (a)1. Not later than May 1 of each year, the
13 commission shall prepare a current list of the names and
14 addresses of, and the offices or positions held by, every
15 state officer, local officer, and specified employee. In
16 compiling the list, the commission shall be assisted by each
17 unit of government in providing, at the request of the
18 commission, the name, address, and name of agency of, and the
19 office or position held by, each state officer, local officer,
20 or specified state employee within the respective unit of
21 government.

22 2. Not later than May 15 of each year, the commission
23 shall provide each supervisor of elections with a current
24 mailing list of all local officers required to file with such
25 supervisor of elections.

26 (b) Not later than 30 days before July 1 of each year,
27 ~~the commission and each supervisor of elections, as~~
28 ~~appropriate,~~ shall mail a copy of the form prescribed for
29 compliance with subsection (3). Not later than 30 days before
30 July 1 of each year, the commission and each supervisor of
31 elections, as appropriate, shall mail a notice of all

1 applicable disclosure forms and filing deadlines to each
2 person required to file a statement of financial interests.

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 to
8 such persons. Each notice shall state that a grace period is
9 in effect until September 1 of the current year; that no
10 investigative or disciplinary action based upon the
11 delinquency will be taken by the agency head or commission if
12 the statement is filed by September 1 of the current year;
13 that, if the statement is not filed by September 1 of the
14 current year, a fine of \$25 for each day late will be imposed,
15 up to a maximum penalty of \$1,500; for notices sent by a
16 supervisor of elections, that he or she is required by law to
17 notify the commission of the delinquency; and that, if upon
18 the filing of a sworn complaint the commission finds that the
19 person has failed to timely file the statement within 60 days
20 after September 1 of the current year, such person will also
21 be subject to the penalties provided in s. 112.317.

22 (d) No later than November 15 of each year, the
23 supervisor of elections in each county shall certify to the
24 commission a list of the names and addresses of, and the
25 offices or positions held by, all persons who have failed to
26 timely file the required statements of financial interests.
27 The certification must include the earliest of the dates
28 described in subparagraph (f)1. The certification shall be on
29 a form prescribed by the commission and shall indicate whether
30 the supervisor of elections has provided the disclosure forms
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1 and notice as required by this subsection to all persons named
2 on the delinquency list.

3 (e) Statements filed with the commission must be filed
4 by electronic means as provided in s. 112.3152. All other
5 statements must be filed not later than 5 p.m. of the due
6 date. However, any statement that is not required to be filed
7 pursuant to s. 112.3152 and that is postmarked by the United
8 States Postal Service by midnight of the due date is deemed to
9 have been filed in a timely manner, and a certificate of
10 mailing obtained from and dated by the United States Postal
11 Service at the time of the mailing, or a receipt from an
12 established courier company which bears a date on or before
13 the due date, constitutes proof of mailing in a timely manner.

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

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

29 a. For statements filed with the commission:

30 (I) When the statement is actually received by the
31 office.

1 (II) When the electronic receipt issued pursuant to s.
2 112.3152 is dated.

3 b. For all other statements:

4 ~~(I)a-~~ When a statement is actually received by the
5 office.

6 ~~(II)b-~~ When the statement is postmarked.

7 ~~(III)c-~~ When the certificate of mailing is dated.

8 ~~(IV)d-~~ When the receipt from an established courier
9 company is dated.

10 2. For a specified state employee or a state officer,
11 upon receipt of the disclosure statement by the commission or
12 upon accrual of the maximum penalty, whichever occurs first,
13 and for a local officer upon receipt by the commission of the
14 certification from the local officer's supervisor of elections
15 pursuant to paragraph (d), the commission shall determine the
16 amount of the fine which is due and shall notify the
17 delinquent person. The notice must include an explanation of
18 the appeal procedure under subparagraph 3. The fine must be
19 paid within 30 days after the notice of payment due is
20 transmitted, unless appeal is made to the commission pursuant
21 to subparagraph 3. The moneys are to be deposited into the
22 General Revenue Fund.

23 3. Any reporting person may appeal or dispute a fine,
24 based upon unusual circumstances surrounding the failure to
25 file on the designated due date, and may request and is
26 entitled to a hearing before the commission, which may waive
27 the fine in whole or in part for good cause shown. Any such
28 request must be made within 30 days after the notice of
29 payment due is transmitted. In such a case, the reporting
30 person must, within the 30-day period, notify the person
31 designated to review the timeliness of reports in writing of

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

3 Section 4. This act shall take effect January 1, 2008.
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6 SENATE SUMMARY

7 Requires public officers and employees who file
8 disclosure of financial interests, gifts, or honoraria
9 with the Commission on Ethics to do so using an
10 Internet-based electronic filing system. Provides
11 standards for such system. Provides for the commission to
12 adopt rules to administer the creation and operation of
13 the system. Requires that information filed
14 electronically be accessible electronically.
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