

By the Committee on Governmental Oversight and Productivity;  
and Senator Posey

585-2473-06

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 filing requirements;

9                   providing requirements for the system;

10                  providing for rules; amending ss. 112.3144,

11                  F.S., relating to disclosure of financial

12                  interests, and 112.3145, F.S., relating to

13                  disclosure of financial interests and clients

14                  represented before agencies; conforming those

15                  sections to changes made by the act; providing

16                  an effective date.

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

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

22                  ~~112.3152 Electronic filing of statements.--~~

23                  (1) As used in this section, the term "electronic

24 filing system" means an Internet system for recording and

25 reporting public information filed with and maintained by the

26 commission by reporting period.

27                  (2) Each individual who files statements or reports in

28 accordance with s. 112.3144, s. 112.3145, s. 112.3148, s.

29 112.3149, or s. 8, Art. II of the State Constitution with the

30 commission must file such statements or reports with the

1 commission by means of the commission's electronic filing  
2 system.

3 (3) Statements or reports filed pursuant to this  
4 section must be completed and filed through the electronic  
5 filing system no later than midnight of the day designated.  
6 Statements not filed by midnight of the day designated are  
7 late-filed and are subject to the penalties under s. 112.317,  
8 s. 112.3144, or s. 112.3145, as applicable. Attachments filed  
9 as part of or in conjunction with the statements or reports  
10 filed electronically pursuant to this section must be filed  
11 not later than 5 p.m. of the due date. A statement or report  
12 filed electronically pursuant to this section may not be  
13 considered timely regardless of when filed with the commission  
14 unless all required attachments are timely filed. Any  
15 attachment that is postmarked by the United States Postal  
16 Service by midnight of the due date is deemed to have been  
17 filed in a timely manner, and a certificate of mailing  
18 obtained from and dated by the United States Postal Service at  
19 the time of mailing, or a receipt from an established courier  
20 company which bears a date on or before the due date,  
21 constitutes proof of mailing in a timely manner.

22 (4) Each statement or report filed pursuant to this  
23 section and filed in accordance with s. 112.3144 or s.  
24 112.3148(8) is considered to be given under oath by the  
25 individual. Each individual who files a statement or report  
26 pursuant to this section is subject to s. 112.317, s.  
27 112.3144, s. 112.3145, s. 112.3148, or s. 112.3149, as  
28 applicable. Persons given a secure sign-on to the electronic  
29 filing system are responsible for protecting it from  
30 disclosure and are responsible for all filings using such  
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1 credentials, unless they have notified the commission that  
2 their credentials have been compromised.

3 (5) The electronic filing system developed by the  
4 commission must:

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

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

8 (c) Provide for direct entry of information and may  
9 provide for the upload of such information from software  
10 certified by the commission.

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

13 (6) The commission shall adopt rules pursuant to ss.  
14 120.54 and 112.322(9) to administer this section and provide  
15 for the statements or reports required to be filed pursuant to  
16 this section. Such rules must, at a minimum, provide:

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

19 (b) For the issuance of an electronic receipt to the  
20 person submitting the statement or report indicating the date  
21 and time the statement or report was filed and verifying that  
22 the statement or report has been filed.

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

25 (7) The commission shall make available on the  
26 Internet in an easily understood and accessible format all  
27 statements and reports filed with the commission in accordance  
28 with this section.

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

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1           112.3144 Full and public disclosure of financial  
2 interests.--

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

8           (a) Not later than May 1 of each year, the commission  
9 shall prepare a current list of the names and addresses of and  
10 the offices held by every person required to file full and  
11 public disclosure annually by s. 8, Art. II of the State  
12 Constitution, or other state law. In compiling the list, the  
13 commission shall be assisted by each unit of government in  
14 providing at the request of the commission the name, address,  
15 and name of the office held by each public official within the  
16 respective unit of government.

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

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

27           (d) Statements must be filed by electronic means as  
28 provided in s. 112.3152 ~~not later than 5 p.m. of the due date.~~  
29 ~~However, any statement that is postmarked by the United States~~  
30 ~~Postal Service by midnight of the due date is deemed to have~~  
31 ~~been filed in a timely manner, and a certificate of mailing~~

1 ~~obtained from and dated by the United States Postal Service at~~  
2 ~~the time of the mailing, or a receipt from an established~~  
3 ~~courier company which bears a date on or before the due date,~~  
4 ~~constitutes proof of mailing in a timely manner.~~

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

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

21 a. For statements or reports filed electronically:

22 ~~When a statement is actually received by the office.~~

23 (I) When a statement or report is actually received by  
24 the office.

25 (II) When the electronic receipt issued pursuant to s.  
26 112.3152 is dated.

27 b. For attachments filed as part of or in conjunction  
28 with the statements or reports filed electronically pursuant  
29 to s. 112.3152: ~~When the statement is postmarked.~~

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

1           (II) When the attachment is postmarked.

2           ~~(III)~~ When the certificate of mailing is dated.

3           ~~(IV)~~ 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           Section 3. Subsection (6) of section 112.3145, Florida  
26 Statutes, is amended to read:

27           112.3145 Disclosure of financial interests and clients  
28 represented before agencies.--

29           (6) Forms for compliance with the disclosure  
30 requirements of this section and a current list of persons  
31 subject to disclosure shall be created by the commission and

1 provided to each supervisor of elections. The commission and  
2 each supervisor of elections shall give notice of disclosure  
3 deadlines and delinquencies and each supervisor of elections  
4 shall distribute forms in the following manner:

5 (a)1. Not later than May 1 of each year, the  
6 commission shall prepare a current list of the names and  
7 addresses of, and the offices or positions held by, every  
8 state officer, local officer, and specified employee. In  
9 compiling the list, the commission shall be assisted by each  
10 unit of government in providing, at the request of the  
11 commission, the name, address, and name of agency of, and the  
12 office or position held by, each state officer, local officer,  
13 or specified state employee within the respective unit of  
14 government.

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

19 (b) Not later than 30 days before July 1 of each year,  
20 ~~the commission and each supervisor of elections, as~~  
21 ~~appropriate,~~ shall mail a copy of the form prescribed for  
22 compliance with subsection (3). Not later than 30 days before  
23 July 1 of each year, the commission and each supervisor of  
24 elections, as appropriate, shall mail a notice of all  
25 applicable disclosure forms and filing deadlines to each  
26 person required to file a statement of financial interests.

27 (c) Not later than 30 days after July 1 of each year,  
28 the commission and each supervisor of elections shall  
29 determine which persons required to file a statement of  
30 financial interests in their respective offices have failed to  
31 do so and shall send delinquency notices by certified mail to

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

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

26 (e) Statements filed with the commission must be filed  
27 by electronic means as provided in s. 112.3152. All other  
28 statements must be filed not later than 5 p.m. of the due  
29 date. However, any statement that is not required to be filed  
30 pursuant to s. 112.3152 and that is postmarked by the United  
31 States Postal Service by midnight of the due date is deemed to



1 have been filed in a timely manner, and a certificate of  
2 mailing obtained from and dated by the United States Postal  
3 Service at the time of the mailing, or a receipt from an  
4 established courier company which bears a date on or before  
5 the due date, constitutes proof of mailing in a timely manner.

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

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

21 a. For statements filed with the commission:

22 (I) When the statement is actually received by the  
23 office.

24 (II) When the electronic receipt issued pursuant to s.  
25 112.3152 is dated.

26 b. For attachments filed as part of or in conjunction  
27 with the statements or reports filed electronically pursuant  
28 to s. 112.3152 and all other statements:

29 (I)~~a-~~ When a statement or attachment is actually  
30 received by the office.

31 (II)~~b-~~ When the statement or attachment is postmarked.

1           ~~(III)e-~~ When the certificate of mailing is dated.

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

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

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

28           Section 4. This act shall take effect January 1, 2008.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2642

Clarifies that attachments may be filed as part of statements or reports filed electronically.

Provides deadlines for such attachments and penalties for timely filing.