

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A bill to be entitled
 An act relating to ethics for public officers and
 employees; amending s. 104.31, F.S.; prohibiting employees
 of the state and its political subdivisions from
 participating in a political campaign, for which there are
 penalties; amending s. 112.313, F.S.; prohibiting certain
 disclosures by a former public officer, agency employee,
 or local government attorney, for which there are
 penalties; redefining the term "employee" to include
 certain other-personal-services employees for certain
 postemployment activities; exempting certain agency
 employees from applicability of postemployment
 restrictions; providing an exemption from provisions
 prohibiting conflicts in employment to a person who, after
 serving on an advisory board, files a statement with the
 Commission on Ethics relating to a bid or submission;
 amending s. 112.3144, F.S.; specifying how assets valued
 in excess of a specified amount are to be reported by a
 reporting individual; amending s. 112.3145, F.S.;
 requiring that a delinquency notice be sent to certain
 officeholders by certified mail, return receipt requested;
 amending s. 112.3147, F.S.; deleting provisions relating
 to the reporting of assets valued in excess of a specified
 amount, to conform; amending s. 112.3148, F.S.; providing
 requirements for persons who have left office or
 employment as to filing a report relating to gifts;
 providing requirements relating to the deadline for and
 timeliness of gift reports; amending s. 112.3149, F.S.;

29 requiring that a report of honoraria by a person who left
 30 office or employment be filed by a specified date;
 31 amending s. 112.317, F.S.; authorizing the commission to
 32 recommend a restitution penalty be paid to the agency of
 33 which the public officer was a member or by which the
 34 public employee was employed or to the General Revenue
 35 Fund; authorizing the Attorney General to recover costs
 36 for filing suit to collect penalties and fines; deleting
 37 provisions imposing a penalty for the disclosure of
 38 information concerning a complaint or an investigation;
 39 amending s. 112.3185, F.S.; providing additional standards
 40 for state agency employees relating to procurement of
 41 goods and services by a state agency; authorizing an
 42 employee whose position was eliminated to engage in
 43 certain contractual activities; prohibiting former
 44 employees from certain specified activities; amending s.
 45 112.321, F.S.; prohibiting an individual who qualifies as
 46 a lobbyist from serving on the commission; prohibiting a
 47 member of the commission from lobbying any state or local
 48 governmental entity; providing exceptions for individuals
 49 who are members of the commission on the effective date of
 50 the act until the expiration of their current terms;
 51 amending s. 112.3215, F.S.; requiring the commission to
 52 adopt a rule detailing the grounds for waiving a fine and
 53 the procedures to be followed when a lobbyist fails to
 54 timely file his or her report; requiring automatic
 55 suspension of a lobbyist's registration if the fine is not
 56 timely paid; requiring the commission to provide written

57 notice to any lobbyist whose registration is automatically
 58 suspended; amending s. 112.322, F.S.; authorizing travel
 59 and per diem expenses for certain witnesses; amending s.
 60 914.21, F.S.; redefining the terms "official
 61 investigation" and "official proceeding," for purposes of
 62 provisions relating to tampering with witnesses, to
 63 include an investigation by the commission; providing an
 64 effective date.

65
 66 Be It Enacted by the Legislature of the State of Florida:

67
 68 Section 1. Present subsections (2) and (3) of section
 69 104.31, Florida Statutes, are renumbered as subsections (3) and
 70 (4), respectively, and a new subsection (2) is added to that
 71 section to read:

72 104.31 Political activities of state, county, and
 73 municipal officers and employees.--

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

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

80 112.313 Standards of conduct for public officers,
 81 employees of agencies, and local government attorneys.--

82 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current
 83 or former public officer, employee of an agency, or local
 84 government attorney shall disclose or use information not

85 available to members of the general public and gained by reason
 86 of his or her official position, except for information relating
 87 exclusively to governmental practices, for his or her personal
 88 gain or benefit or for the personal gain or benefit of any other
 89 person or business entity.

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

92 (a)1. It is the intent of the Legislature to implement by
 93 statute the provisions of s. 8(e), Art. II of the State
 94 Constitution relating to legislators, statewide elected
 95 officers, appointed state officers, and designated public
 96 employees.

97 2. As used in this paragraph:

98 a. "Employee" means:

99 (I) Any person employed in the executive or legislative
 100 branch of government holding a position in the Senior Management
 101 Service as defined in s. 110.402 or any person holding a
 102 position in the Selected Exempt Service as defined in s. 110.602
 103 or any person having authority over policy or procurement
 104 employed by the Department of the Lottery.

105 (II) The Auditor General, the director of the Office of
 106 Program Policy Analysis and Government Accountability, the
 107 Sergeant at Arms and Secretary of the Senate, and the Sergeant
 108 at Arms and Clerk of the House of Representatives.

109 (III) The executive director of the Legislative Committee
 110 on Intergovernmental Relations and the executive director and
 111 deputy executive director of the Commission on Ethics.

112 (IV) An executive director, staff director, or deputy

113 staff director of each joint committee, standing committee, or
114 select committee of the Legislature; an executive director,
115 staff director, executive assistant, analyst, or attorney of the
116 Office of the President of the Senate, the Office of the Speaker
117 of the House of Representatives, the Senate Majority Party
118 Office, Senate Minority Party Office, House Majority Party
119 Office, or House Minority Party Office; or any person, hired on
120 a contractual basis, having the power normally conferred upon
121 such persons, by whatever title.

122 (V) The Chancellor and Vice Chancellors of the State
123 University System; the general counsel to the Board of Regents;
124 and the president, vice presidents, and deans of each state
125 university.

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

129 b. "Appointed state officer" means any member of an
130 appointive board, commission, committee, council, or authority
131 of the executive or legislative branch of state government whose
132 powers, jurisdiction, and authority are not solely advisory and
133 include the final determination or adjudication of any personal
134 or property rights, duties, or obligations, other than those
135 relative to its internal operations.

136 c. "State agency" means an entity of the legislative,
137 executive, or judicial branch of state government over which the
138 Legislature exercises plenary budgetary and statutory control.

139 3. No member of the Legislature, appointed state officer,
140 or statewide elected officer shall personally represent another

141 person or entity for compensation before the government body or
 142 agency of which the individual was an officer or member for a
 143 period of 2 years following vacation of office. No member of the
 144 Legislature shall personally represent another person or entity
 145 for compensation during his or her term of office before any
 146 state agency other than judicial tribunals or in settlement
 147 negotiations after the filing of a lawsuit.

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

153 5. Any person violating this paragraph shall be subject to
 154 the penalties provided in s. 112.317 and a civil penalty of an
 155 amount equal to the compensation which the person receives for
 156 the prohibited conduct.

157 6. This paragraph is not applicable to:

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

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

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

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

169 e. Any appointed state officer whose term of office began
 170 before January 1, 1995, unless reappointed to that office on or
 171 after January 1, 1995; ~~or-~~

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

176 (12) EXEMPTION.--The requirements of subsections (3) and
 177 (7) as they pertain to persons serving on advisory boards may be
 178 waived in a particular instance by the body which appointed the
 179 person to the advisory board, upon a full disclosure of the
 180 transaction or relationship to the appointing body prior to the
 181 waiver and an affirmative vote in favor of waiver by two-thirds
 182 vote of that body. In instances in which appointment to the
 183 advisory board is made by an individual, waiver may be effected,
 184 after public hearing, by a determination by the appointing
 185 person and full disclosure of the transaction or relationship by
 186 the appointee to the appointing person. In addition, no person
 187 shall be held in violation of subsection (3) or subsection (7)
 188 if:

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

191 1. The official or the official's spouse or child has in
 192 no way participated in the determination of the bid
 193 specifications or the determination of the lowest or best
 194 bidder;

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

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

199 3. The official, prior to or at the time of the submission
 200 of the bid, has filed a statement with the Commission on Ethics
 201 ~~Department of State~~, if the official is a state officer or
 202 employee, or with the supervisor of elections of the county in
 203 which the agency has its principal office, if the official is an
 204 officer or employee of a political subdivision, disclosing the
 205 official's interest, or the interest of the official's spouse or
 206 child, and the nature of the intended business.

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

213 Section 3. Present subsections (4), (5), and (6) of
 214 section 112.3144, Florida Statutes, are renumbered as
 215 subsections (5), (6), and (7), respectively, paragraph (g) of
 216 present subsection (4) is amended, and a new subsection (4) is
 217 added to that section, to read:

218 112.3144 Full and public disclosure of financial
 219 interests.--

220 (4)(a) With respect to reporting, on forms prescribed
 221 under this section, assets valued in excess of \$1,000 that the
 222 reporting individual holds jointly with another person, the
 223 amount reported shall be based on the reporting individual's
 224 legal percentage of ownership in the property. However, assets

225 that are held jointly with right of survivorship must be
 226 reported at 100 percent of the value of the asset. For purposes
 227 of this subsection, a reporting individual is deemed to own a
 228 percentage of a partnership that is equal to the reporting
 229 individual's interest in the capital or equity of the
 230 partnership.

231 (b)1. With respect to reporting, on forms prescribed under
 232 this section, liabilities valued in excess of \$1,000 for which
 233 the reporting individual is jointly and severally liable, the
 234 amount reported shall be based on the reporting individual's
 235 percentage of liability rather than the total amount of the
 236 liability. However, liability for a debt that is secured by
 237 property owned by the reporting individual but that is held
 238 jointly with right of survivorship must be reported at 100
 239 percent of the total amount owed.

240 2. A separate section of the form shall be created to
 241 provide for the reporting of the amounts of joint and several
 242 liability of the reporting individual not otherwise reported in
 243 subparagraph 1.

244 (5)(4) Forms for compliance with the full and public
 245 disclosure requirements of s. 8, Art. II of the State
 246 Constitution shall be created by the Commission on Ethics. The
 247 commission shall give notice of disclosure deadlines and
 248 delinquencies and distribute forms in the following manner:

249 (g) The notification requirements and fines of this
 250 subsection do not apply to candidates or to the first filing
 251 required of any person appointed to elective constitutional
 252 office or other position required to file full and public

253 disclosure, unless the person's name is on the commission's
 254 notification list and the person received notification from the
 255 commission. The appointing official shall notify such newly
 256 appointed person of the obligation to file full and public
 257 disclosure by July 1. The notification requirements and fines of
 258 this subsection do not apply to the final filing provided for in
 259 subsection (6)~~(5)~~.

260 Section 4. Paragraph (c) of subsection (6) of section
 261 112.3145, Florida Statutes, is amended to read:

262 112.3145 Disclosure of financial interests and clients
 263 represented before agencies.--

264 (6) Forms for compliance with the disclosure requirements
 265 of this section and a current list of persons subject to
 266 disclosure shall be created by the commission and provided to
 267 each supervisor of elections. The commission and each supervisor
 268 of elections shall give notice of disclosure deadlines and
 269 delinquencies and distribute forms in the following manner:

270 (c) Not later than 30 days after July 1 of each year, the
 271 commission and each supervisor of elections shall determine
 272 which persons required to file a statement of financial
 273 interests in their respective offices have failed to do so and
 274 shall send delinquency notices by certified mail, return receipt
 275 requested, to these ~~such~~ persons. Each notice shall state that a
 276 grace period is in effect until September 1 of the current year;
 277 that no investigative or disciplinary action based upon the
 278 delinquency will be taken by the agency head or commission if
 279 the statement is filed by September 1 of the current year; that,
 280 if the statement is not filed by September 1 of the current

281 year, a fine of \$25 for each day late will be imposed, up to a
 282 maximum penalty of \$1,500; for notices sent by a supervisor of
 283 elections, that he or she is required by law to notify the
 284 commission of the delinquency; and that, if upon the filing of a
 285 sworn complaint the commission finds that the person has failed
 286 to timely file the statement within 60 days after September 1 of
 287 the current year, such person will also be subject to the
 288 penalties provided in s. 112.317.

289 Section 5. Section 112.3147, Florida Statutes, is amended
 290 to read:

291 112.3147 Forms.--

292 ~~(1)~~ All information required to be furnished by ss.
 293 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
 294 and by s. 8, Art. II of the State Constitution shall be on forms
 295 prescribed by the Commission on Ethics.

296 ~~(2)(a) With respect to reporting assets valued in excess~~
 297 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~
 298 ~~reporting individual holds jointly with another person, the~~
 299 ~~amount reported shall be based on the reporting individual's~~
 300 ~~legal percentage of ownership in the property, except that~~
 301 ~~assets held jointly with the reporting individual's spouse shall~~
 302 ~~be reported at 100 percent of the value of the asset. For~~
 303 ~~purposes of this subsection, a reporting individual is deemed to~~
 304 ~~own an interest in a partnership which corresponds to the~~
 305 ~~reporting individual's interest in the capital or equity of the~~
 306 ~~partnership.~~

307 ~~(b)1. With respect to reporting liabilities valued in~~
 308 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~

309 ~~which the reporting individual is jointly and severally liable,~~
 310 ~~the amount reported shall be based upon the reporting~~
 311 ~~individual's percentage of liability rather than the total~~
 312 ~~amount of the liability, except, a joint and several liability~~
 313 ~~with the reporting individual's spouse for a debt which relates~~
 314 ~~to property owned by both as tenants by the entirety shall be~~
 315 ~~reported at 100 percent of the total amount owed.~~

316 ~~2. A separate section of the form shall be created to~~
 317 ~~provide for the reporting of the amounts of joint and several~~
 318 ~~liability of the reporting individual not otherwise reported in~~
 319 ~~paragraph (a).~~

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

322 112.3148 Reporting and prohibited receipt of gifts by
 323 individuals filing full or limited public disclosure of
 324 financial interests and by procurement employees.--

325 (6)

326 (d) No later than July 1 of each year, each reporting
 327 individual or procurement employee shall file a statement
 328 listing each gift having a value in excess of \$100 received by
 329 the reporting individual or procurement employee, either
 330 directly or indirectly, from a governmental entity or a direct-
 331 support organization specifically authorized by law to support a
 332 governmental entity. The statement shall list the name of the
 333 person providing the gift, a description of the gift, the date
 334 or dates on which the gift was given, and the value of the total
 335 gifts given during the calendar year for which the report is
 336 made. The reporting individual or procurement employee shall

337 | attach to the ~~such~~ statement any report received by him or her
 338 | in accordance with paragraph (c), which report shall become a
 339 | public record when filed with the statement of the reporting
 340 | individual or procurement employee. The reporting individual or
 341 | procurement employee may explain any differences between the
 342 | report of the reporting individual or procurement employee and
 343 | the attached reports. The annual report filed by a reporting
 344 | individual shall be filed with the financial disclosure
 345 | statement required by either s. 8, Art. II of the State
 346 | Constitution or s. 112.3145, as applicable to the reporting
 347 | individual. The annual report filed by a procurement employee
 348 | shall be filed with the Commission on Ethics. The report filed
 349 | by a reporting individual or procurement employee who left
 350 | office or employment during the calendar year covered by the
 351 | report shall be filed by July 1 of the year after leaving office
 352 | or employment at the same location as his or her final financial
 353 | disclosure statement or, in the case of a former procurement
 354 | employee, with the Commission on Ethics.

355 | (8)(a) Each reporting individual or procurement employee
 356 | shall file a statement with the Commission on Ethics not later
 357 | than ~~on~~ the last day of each calendar quarter, for the previous
 358 | calendar quarter, containing a list of gifts which he or she
 359 | believes to be in excess of \$100 in value, if any, accepted by
 360 | him or her, for which compensation was not provided by the donee
 361 | to the donor within 90 days of receipt of the gift to reduce the
 362 | value to \$100 or less, except the following:

- 363 | 1. Gifts from relatives.
- 364 | 2. Gifts prohibited by subsection (4) or s. 112.313(4).

365 3. Gifts otherwise required to be disclosed by this
366 section.

367 (b) The statement shall include:

368 1. A description of the gift, the monetary value of the
369 gift, the name and address of the person making the gift, and
370 the dates thereof. If any of these facts, other than the gift
371 description, are unknown or not applicable, the report shall so
372 state.

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

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

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

381 (e) Statements must be filed not later than 5 p.m. on the
382 due date. However, any statement that is postmarked by the
383 United States Postal Service by midnight on the due date is
384 deemed to have been filed in a timely manner, and a certificate
385 of mailing obtained from and dated by the United States Postal
386 Service at the time of the mailing, or a receipt from an
387 established courier company that bears a date on or before the
388 due date, constitutes proof of mailing in a timely manner.

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

393 Section 7. Subsection (6) of section 112.3149, Florida
394 Statutes, is amended to read:
395 112.3149 Solicitation and disclosure of honoraria.--
396 (6) A reporting individual or procurement employee who
397 receives payment or provision of expenses related to any
398 honorarium event from a person who is prohibited by subsection
399 (4) from paying an honorarium to a reporting individual or
400 procurement employee shall publicly disclose on an annual
401 statement the name, address, and affiliation of the person
402 paying or providing the expenses; the amount of the honorarium
403 expenses; the date of the honorarium event; a description of the
404 expenses paid or provided on each day of the honorarium event;
405 and the total value of the expenses provided to the reporting
406 individual or procurement employee in connection with the
407 honorarium event. The annual statement of honorarium expenses
408 shall be filed by July 1 of each year for those ~~such~~ expenses
409 received during the previous calendar year. The reporting
410 individual or procurement employee shall attach to the annual
411 statement a copy of each statement received by him or her in
412 accordance with subsection (5) regarding honorarium expenses
413 paid or provided during the calendar year for which the annual
414 statement is filed. The ~~Such~~ attached statement shall become a
415 public record upon the filing of the annual report. The annual
416 statement of a reporting individual shall be filed with the
417 financial disclosure statement required by either s. 8, Art. II
418 of the State Constitution or s. 112.3145, as applicable to the
419 reporting individual. The annual statement of a procurement
420 employee shall be filed with the Commission on Ethics. The

421 statement filed by a reporting individual or procurement
 422 employee who left office or employment during the calendar year
 423 covered by the statement shall be filed by July 1 of the year
 424 after leaving office or employment at the same location as his
 425 or her final financial disclosure statement or, in the case of a
 426 former procurement employee, with the Commission on Ethics.

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

429 112.317 Penalties.--

430 (1) Violation of any provision of this part, including,
 431 but not limited to, any failure to file any disclosures required
 432 by this part or violation of any standard of conduct imposed by
 433 this part, or violation of any provision of s. 8, Art. II of the
 434 State Constitution, in addition to any criminal penalty or other
 435 civil penalty involved, shall, under ~~pursuant to~~ applicable
 436 constitutional and statutory procedures, constitute grounds for,
 437 and may be punished by, one or more of the following:

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

- 439 1. Impeachment.
- 440 2. Removal from office.
- 441 3. Suspension from office.
- 442 4. Public censure and reprimand.
- 443 5. Forfeiture of no more than one-third salary per month
 444 for no more than 12 months.
- 445 6. A civil penalty not to exceed \$10,000.
- 446 7. Restitution of any pecuniary benefits received because
 447 of the violation committed. The commission may recommend that
 448 the restitution penalty be paid to the agency of which the

449 public officer was a member or to the General Revenue Fund.

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

- 453 1. Dismissal from employment.
- 454 2. Suspension from employment for not more than 90 days
 455 without pay.
- 456 3. Demotion.
- 457 4. Reduction in salary level.
- 458 5. Forfeiture of no more than one-third salary per month
 459 for no more than 12 months.

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

461 7. Restitution of any pecuniary benefits received because
 462 of the violation committed. The commission may recommend that
 463 the restitution penalty be paid to the agency by which the
 464 public employee was employed, or of which the officer was deemed
 465 to be an employee, or to the General Revenue Fund.

466 8. Public censure and reprimand.

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

- 470 1. Disqualification from being on the ballot.
- 471 2. Public censure.
- 472 3. Reprimand.
- 473 4. A civil penalty not to exceed \$10,000.

474 (d) In the case of a former public officer or employee who
 475 has violated a provision applicable to former officers or
 476 employees or whose violation occurred before the ~~prior to such~~

477 officer's or employee's leaving public office or employment:

- 478 1. Public censure and reprimand.
- 479 2. A civil penalty not to exceed \$10,000.
- 480 3. Restitution of any pecuniary benefits received because
- 481 of the violation committed. The commission may recommend that
- 482 the restitution penalty be paid to the agency by which the
- 483 public employee was employed, or of which the officer was deemed
- 484 to be an employee, or to the General Revenue Fund.

485 (2) In any case in which the commission finds a violation

486 of this part or of s. 8, Art. II of the State Constitution and

487 the proper disciplinary official or body under s. 112.324

488 imposes ~~recommends~~ a civil penalty or restitution penalty, the

489 Attorney General shall bring a civil action to recover such

490 penalty. No defense may be raised in the civil action to enforce

491 the civil penalty or order of restitution that could have been

492 raised by judicial review of the administrative findings and

493 recommendations of the commission by certiorari to the district

494 court of appeal. The Attorney General shall collect any costs,

495 attorney's fees, expert witness fees, or other costs of

496 collection incurred in bringing the action.

497 ~~(6) Any person who willfully discloses, or permits to be~~

498 ~~disclosed, his or her intention to file a complaint, the~~

499 ~~existence or contents of a complaint which has been filed with~~

500 ~~the commission, or any document, action, or proceeding in~~

501 ~~connection with a confidential preliminary investigation of the~~

502 ~~commission, before such complaint, document, action, or~~

503 ~~proceeding becomes a public record as provided herein commits a~~

504 ~~misdemeanor of the first degree, punishable as provided in s.~~

505 ~~775.082 or s. 775.083.~~

506 (6)~~(7)~~ In any case in which the commission finds probable
 507 cause to believe that a complainant has committed perjury in
 508 regard to any document filed with, or any testimony given
 509 before, the commission, it shall refer such evidence to the
 510 appropriate law enforcement agency for prosecution and taxation
 511 of costs.

512 (7)~~(8)~~ In any case in which the commission determines that
 513 a person has filed a complaint against a public officer or
 514 employee with a malicious intent to injure the reputation of
 515 such officer or employee by filing the complaint with knowledge
 516 that the complaint contains one or more false allegations or
 517 with reckless disregard for whether the complaint contains false
 518 allegations of fact material to a violation of this part, the
 519 complainant shall be liable for costs plus reasonable attorney's
 520 fees incurred in the defense of the person complained against,
 521 including the costs and reasonable attorney's fees incurred in
 522 proving entitlement to and the amount of costs and fees. If the
 523 complainant fails to pay such costs and fees voluntarily within
 524 30 days following such finding by the commission, the commission
 525 shall forward such information to the Department of Legal
 526 Affairs, which shall bring a civil action in a court of
 527 competent jurisdiction to recover the amount of such costs and
 528 fees awarded by the commission.

529 Section 9. Section 112.3185, Florida Statutes, is amended
 530 to read:

531 112.3185 Additional standards for state agency employees
 532 ~~Contractual services.--~~

533 (1) For the purposes of this section:

534 (a) "Contractual services" shall be defined as set forth

535 in chapter 287.

536 (b) "Agency" means any state officer, department, board,

537 commission, or council of the executive or judicial branch of

538 state government and includes the Public Service Commission.

539 (2) No agency employee who participates through decision,

540 approval, disapproval, recommendation, preparation of any part

541 of a purchase request, influencing the content of any

542 specification or procurement standard, rendering of advice,

543 investigation, or auditing or in any other advisory capacity in

544 the procurement of contractual services shall become or be,

545 while an agency employee, the employee of a person contracting

546 with the agency by whom the employee is employed.

547 (3) No agency employee shall, after retirement or

548 termination, have or hold any employment or contractual

549 relationship with any business entity other than an agency in

550 connection with any contract in which the agency employee

551 participated personally and substantially through decision,

552 approval, disapproval, recommendation, rendering of advice, or

553 investigation while an officer or employee. When the agency

554 employee's position is eliminated and his or her duties are

555 performed by the business entity, this subsection does not

556 prohibit his or her employment or contractual relationship with

557 the business entity if the employee's participation in the

558 contract was limited to recommendation, rendering of advice, or

559 investigation and if the agency head determines that the best

560 interests of the state will be served thereby and provides prior

561 written approval for the particular employee.

562 (4) No agency employee shall, within 2 years after
 563 retirement or termination, have or hold any employment or
 564 contractual relationship with any business entity other than an
 565 agency in connection with any contract for contractual services
 566 which was within his or her responsibility while an employee. If
 567 the agency employee's position is eliminated and his or her
 568 duties are performed by the business entity, the provisions of
 569 this subsection may be waived by the agency head through prior
 570 written approval for a particular employee if the agency head
 571 determines that the best interests of the state will be served
 572 thereby.

573 (5) The sum of money paid to a former agency employee
 574 during the first year after the cessation of his or her
 575 responsibilities, by the agency with whom he or she was
 576 employed, for contractual services provided to the agency, shall
 577 not exceed the annual salary received on the date of cessation
 578 of his or her responsibilities. ~~The provisions of~~ This
 579 subsection may be waived by the agency head for a particular
 580 contract if the agency head determines that such waiver will
 581 result in significant time or cost savings for the state.

582 (6) No agency employee shall, after retirement or
 583 termination, represent or advise for compensation another person
 584 or entity, except the state, in any matter in which the employee
 585 participated personally and substantially in his or her official
 586 capacity through decision, approval, disapproval,
 587 recommendation, rendering of advice, investigation, or otherwise
 588 while an employee. The term "matter" includes any judicial or

589 other proceeding, application, request for a ruling, or other
 590 determination, contract, claim, controversy, investigation,
 591 charge, accusation, arrest, or other particular action involving
 592 a specific party or parties.

593 (7)(6) No agency employee acting in an official capacity
 594 shall directly or indirectly procure contractual services for
 595 his or her own agency from any business entity of which a
 596 relative is an officer, partner, director, or proprietor or in
 597 which the ~~such~~ officer or employee or his or her spouse or
 598 child, or any combination of them, has a material interest.

599 (8)(7) A violation of any provision of this section is
 600 punishable in accordance with s. 112.317.

601 (9)(8) This section is not applicable to any employee of
 602 the Public Service Commission who was so employed on or before
 603 December 31, 1994.

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

606 112.321 Membership, terms; travel expenses; staff.--

607 (1) The commission shall be composed of nine members. Five
 608 of these members shall be appointed by the Governor, no more
 609 than three of whom shall be from the same political party,
 610 subject to confirmation by the Senate. One member appointed by
 611 the Governor shall be a former city or county official and may
 612 be a former member of a local planning or zoning board which has
 613 only advisory duties. Two members shall be appointed by the
 614 Speaker of the House of Representatives, and two members shall
 615 be appointed by the President of the Senate. Neither the Speaker
 616 of the House of Representatives nor the President of the Senate

617 shall appoint more than one member from the same political
 618 party. Of the nine members of the commission, no more than five
 619 members shall be from the same political party at any one time.
 620 No member may hold any public employment. An individual who
 621 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or
 622 pursuant to any local government charter or ordinance may not
 623 serve as a member of the commission, except that this
 624 prohibition does not apply to an individual who is a member of
 625 the commission on October 1, 2006, until the expiration of his
 626 or her current term. A member of the commission may not lobby
 627 any state or local governmental entity as provided in s. 11.045
 628 or s. 112.3215 or as provided by any local government charter or
 629 ordinance, except that this prohibition does not apply to an
 630 individual who is a member of the commission on October 1, 2006,
 631 until the expiration of his or her current term. All members
 632 shall serve 2-year terms. No member shall serve more than two
 633 full terms in succession. Any member of the commission may be
 634 removed for cause by majority vote of the Governor, the
 635 President of the Senate, the Speaker of the House of
 636 Representatives, and the Chief Justice of the Supreme Court.

637 Section 11. Paragraph (f) of subsection (5) of section
 638 112.3215, Florida Statutes, is amended to read:

639 112.3215 Lobbyists before the executive branch or the
 640 Constitution Revision Commission; registration and reporting;
 641 investigation by commission.--

642 (5)

643 (f) The commission shall provide by rule the grounds for
 644 waiving a fine, the procedures a procedure by which a lobbyist

645 who fails to timely file a report shall be notified and assessed
646 finest, and the procedure for appealing the finest. The rule shall
647 provide for the following:

648 1. Upon determining that the report is late, the person
649 designated to review the timeliness of reports shall immediately
650 notify the lobbyist as to the failure to timely file the report
651 and that a fine is being assessed for each late day. The fine
652 shall be \$50 per day per report for each late day up to a
653 maximum of \$5,000 per late report.

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

657 a. When a report is actually received by the lobbyist
658 registration and reporting office.

659 b. When the report is postmarked.

660 c. When the certificate of mailing is dated.

661 d. When the receipt from an established courier company is
662 dated.

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

668 4. A fine shall not be assessed against a lobbyist the
669 first time any reports for which the lobbyist is responsible are
670 not timely filed. However, to receive the one-time fine waiver,
671 all reports for which the lobbyist is responsible must be filed
672 within 30 days after the notice that any reports have not been

673 timely filed is transmitted by the Lobbyist Registration Office.
 674 A fine shall be assessed for any subsequent late-filed reports.

675 5. Any lobbyist may appeal or dispute a fine, based upon
 676 unusual circumstances surrounding the failure to file on the
 677 designated due date, and may request and shall be entitled to a
 678 hearing before the commission, which shall have the authority to
 679 waive the fine in whole or in part for good cause shown. Any
 680 ~~such~~ request shall be made within 30 days after the notice of
 681 payment due is transmitted by the Lobbyist Registration Office.
 682 In such case, the lobbyist shall, within the 30-day period,
 683 notify the person designated to review the timeliness of reports
 684 in writing of his or her intention to bring the matter before
 685 the commission.

686 6. The person designated to review the timeliness of
 687 reports shall notify the commission of the failure of a lobbyist
 688 to file a report after notice or of the failure of a lobbyist to
 689 pay the fine imposed. The registration of a lobbyist who fails
 690 to timely pay a fine is automatically suspended until the fine
 691 is paid, unless an appeal of the fine is pending before the
 692 commission. The commission shall provide a written suspension
 693 notice to each lobbyist whose registration has been
 694 automatically suspended.

695 7. Notwithstanding any provision of chapter 120, any fine
 696 imposed under this subsection that is not waived by final order
 697 of the commission and that remains unpaid more than 60 days
 698 after the notice of payment due or more than 60 days after the
 699 commission renders a final order on the lobbyist's appeal shall
 700 be collected by the Department of Financial Services as a claim,

701 debt, or other obligation owed to the state, and the department
 702 may assign the collection of such fine to a collection agent as
 703 provided in s. 17.20.

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

706 112.322 Duties and powers of commission.--

707 (4) The commission has the power to subpoena, audit, and
 708 investigate. The commission may subpoena witnesses and compel
 709 their attendance and testimony, administer oaths and
 710 affirmations, take evidence, and require by subpoena the
 711 production of any books, papers, records, or other items
 712 relevant to the performance of the duties of the commission or
 713 to the exercise of its powers. The commission may delegate to
 714 its investigators the authority to administer oaths and
 715 affirmations. The commission may delegate the authority to issue
 716 subpoenas to its chair, and may authorize its employees to serve
 717 any subpoena issued under this section. In the case of a refusal
 718 to obey a subpoena issued to any person, the commission may make
 719 application to any circuit court of this state which shall have
 720 jurisdiction to order the witness to appear before the
 721 commission and to produce evidence, if so ordered, or to give
 722 testimony touching on the matter in question. Failure to obey
 723 the order may be punished by the court as contempt. Witnesses
 724 shall be paid mileage and witnesses fees as authorized for
 725 witnesses in civil cases, except that a witness who is required
 726 to travel outside the county of his or her residence to testify
 727 is entitled to per diem and travel expenses at the same rate
 728 provided for state employees under s. 112.061, to be paid after

729 the witness appears.

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

732 914.21 Definitions.--As used in ss. 914.22-914.24, the
733 term:

734 (3) "Official investigation" means any investigation
735 instituted by a law enforcement agency or prosecuting officer of
736 the state or a political subdivision of the state or the
737 Commission on Ethics.

738 (4) "Official proceeding" means:

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

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

741 (c) A proceeding before a federal agency which is
742 authorized by law; or-

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

744 Section 14. This act shall take effect October 1, 2006.