

CHAMBER ACTION

1 The Ethics & Elections Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to ethics for public officers and
7 employees; amending s. 104.31, F.S.; prohibiting employees
8 of the state and its political subdivisions from
9 participating in a political campaign, for which there are
10 penalties; amending s. 112.313, F.S.; prohibiting certain
11 disclosures by a former public officer, agency employee,
12 or local government attorney, for which there are
13 penalties; redefining the term "employee" to include
14 certain other-personal-services employees for certain
15 postemployment activities; exempting certain agency
16 employees from applicability of postemployment
17 restrictions; providing an exemption from provisions
18 prohibiting conflicts in employment to a person who, after
19 serving on an advisory board, files a statement with the
20 Commission on Ethics relating to a bid or submission;
21 amending s. 112.3144, F.S.; specifying how assets valued
22 in excess of a specified amount are to be reported by a
23 reporting individual; amending s. 112.3145, F.S.;

24 requiring that a delinquency notice be sent to certain
25 officeholders by certified mail, return receipt requested;
26 amending s. 112.3147, F.S.; deleting provisions relating
27 to the reporting of assets valued in excess of a specified
28 amount, to conform; amending s. 112.3148, F.S.; providing
29 requirements for persons who have left office or
30 employment as to filing a report relating to gifts;
31 providing requirements relating to the deadline for and
32 timeliness of gift reports; amending s. 112.3149, F.S.;
33 requiring that a report of honoraria by a person who left
34 office or employment be filed by a specified date;
35 amending s. 112.317, F.S.; authorizing the commission to
36 recommend a restitution penalty be paid to the agency of
37 which the public officer was a member or by which the
38 public employee was employed or to the General Revenue
39 Fund; authorizing the Attorney General to recover costs
40 for filing suit to collect penalties and fines; deleting
41 provisions imposing a penalty for the disclosure of
42 information concerning a complaint or an investigation;
43 amending s. 112.3185, F.S.; providing additional standards
44 for state agency employees relating to procurement of
45 goods and services by a state agency; authorizing an
46 employee whose position was eliminated to engage in
47 certain contractual activities; prohibiting former
48 employees from certain specified activities; amending s.
49 112.321, F.S.; prohibiting an individual who qualifies as
50 a lobbyist from serving on the commission; prohibiting a
51 member of the commission from lobbying any state or local

HB 493

2006
CS

52 governmental entity; providing exceptions for individuals
53 who are members of the commission on the effective date of
54 the act until the expiration of their current terms;
55 amending s. 112.3215, F.S.; requiring the commission to
56 adopt a rule detailing the grounds for waiving a fine and
57 the procedures to be followed when a lobbyist fails to
58 timely file his or her report; requiring automatic
59 suspension of certain lobbyist registrations if the fine
60 is not timely paid; requiring the commission to provide
61 written notice to any lobbyist whose registration is
62 automatically suspended; amending s. 112.322, F.S.;
63 authorizing travel and per diem expenses for certain
64 witnesses; amending s. 914.21, F.S.; redefining the terms
65 "official investigation" and "official proceeding," for
66 purposes of provisions relating to tampering with
67 witnesses, to include an investigation by the commission;
68 providing an effective date.

69
70 Be It Enacted by the Legislature of the State of Florida:

71
72 Section 1. Present subsections (2) and (3) of section
73 104.31, Florida Statutes, are renumbered as subsections (3) and
74 (4), respectively, and a new subsection (2) is added to that
75 section to read:

76 104.31 Political activities of state, county, and
77 municipal officers and employees.--

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

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

84 112.313 Standards of conduct for public officers,
 85 employees of agencies, and local government attorneys.--

86 (8) DISCLOSURE OR USE OF CERTAIN INFORMATION.--No current
 87 or former public officer, employee of an agency, or local
 88 government attorney shall disclose or use information not
 89 available to members of the general public and gained by reason
 90 of his or her official position, except for information relating
 91 exclusively to governmental practices, for his or her personal
 92 gain or benefit or for the personal gain or benefit of any other
 93 person or business entity.

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

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

101 2. As used in this paragraph:

102 a. "Employee" means:

103 (I) Any person employed in the executive or legislative
 104 branch of government holding a position in the Senior Management
 105 Service as defined in s. 110.402 or any person holding a

HB 493

2006
CS

106 position in the Selected Exempt Service as defined in s. 110.602
107 or any person having authority over policy or procurement
108 employed by the Department of the Lottery.

109 (II) The Auditor General, the director of the Office of
110 Program Policy Analysis and Government Accountability, the
111 Sergeant at Arms and Secretary of the Senate, and the Sergeant
112 at Arms and Clerk of the House of Representatives.

113 (III) The executive director of the Legislative Committee
114 on Intergovernmental Relations and the executive director and
115 deputy executive director of the Commission on Ethics.

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

126 (V) The Chancellor and Vice Chancellors of the State
127 University System; the general counsel to the Board of Regents;
128 and the president, vice presidents, and deans of each state
129 university.

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

HB 493

2006
CS

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

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

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

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

157 5. Any person violating this paragraph shall be subject to
158 the penalties provided in s. 112.317 and a civil penalty of an
159 amount equal to the compensation which the person receives for
160 the prohibited conduct.

- 161 6. This paragraph is not applicable to:
- 162 a. A person employed by the Legislature or other agency
- 163 prior to July 1, 1989;
- 164 b. A person who was employed by the Legislature or other
- 165 agency on July 1, 1989, whether or not the person was a defined
- 166 employee on July 1, 1989;
- 167 c. A person who was a defined employee of the State
- 168 University System or the Public Service Commission who held such
- 169 employment on December 31, 1994;
- 170 d. A person who has reached normal retirement age as
- 171 defined in s. 121.021(29), and who has retired under the
- 172 provisions of chapter 121 by July 1, 1991; ~~or~~
- 173 e. Any appointed state officer whose term of office began
- 174 before January 1, 1995, unless reappointed to that office on or
- 175 after January 1, 1995; or-
- 176 f. An agency employee who continuously has held a position
- 177 that was transferred from the Career Service System to the
- 178 Selected Exempt Service System under chapter 2001-43, Laws of
- 179 Florida, until leaving state employment.

180 (12) EXEMPTION.--The requirements of subsections (3) and

181 (7) as they pertain to persons serving on advisory boards may be

182 waived in a particular instance by the body which appointed the

183 person to the advisory board, upon a full disclosure of the

184 transaction or relationship to the appointing body prior to the

185 waiver and an affirmative vote in favor of waiver by two-thirds

186 vote of that body. In instances in which appointment to the

187 advisory board is made by an individual, waiver may be effected,

188 after public hearing, by a determination by the appointing

HB 493

2006
CS

189 person and full disclosure of the transaction or relationship by
190 the appointee to the appointing person. In addition, no person
191 shall be held in violation of subsection (3) or subsection (7)
192 if:

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

195 1. The official or the official's spouse or child has in
196 no way participated in the determination of the bid
197 specifications or the determination of the lowest or best
198 bidder;

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

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

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

HB 493

2006
CS

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

222 112.3144 Full and public disclosure of financial
223 interests.--

224 (4) (a) With respect to reporting, on forms prescribed
225 under this section, assets valued in excess of \$1,000 that the
226 reporting individual holds jointly with another person, the
227 amount reported shall be based on the reporting individual's
228 legal percentage of ownership in the property. However, assets
229 that are held jointly with right of survivorship must be
230 reported at 100 percent of the value of the asset. For purposes
231 of this subsection, a reporting individual is deemed to own a
232 percentage of a partnership that is equal to the reporting
233 individual's interest in the capital or equity of the
234 partnership.

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

HB 493

2006
CS

244 2. A separate section of the form shall be created to
245 provide for the reporting of the amounts of joint and several
246 liability of the reporting individual not otherwise reported in
247 subparagraph 1.

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

253 (g) The notification requirements and fines of this
254 subsection do not apply to candidates or to the first filing
255 required of any person appointed to elective constitutional
256 office or other position required to file full and public
257 disclosure, unless the person's name is on the commission's
258 notification list and the person received notification from the
259 commission. The appointing official shall notify such newly
260 appointed person of the obligation to file full and public
261 disclosure by July 1. The notification requirements and fines of
262 this subsection do not apply to the final filing provided for in
263 subsection (6)-(5).

264 Section 4. Paragraph (c) of subsection (6) of section
265 112.3145, Florida Statutes, is amended to read:

266 112.3145 Disclosure of financial interests and clients
267 represented before agencies.--

268 (6) Forms for compliance with the disclosure requirements
269 of this section and a current list of persons subject to
270 disclosure shall be created by the commission and provided to
271 each supervisor of elections. The commission and each supervisor

HB 493

2006
CS

272 of elections shall give notice of disclosure deadlines and
273 delinquencies and distribute forms in the following manner:

274 (c) Not later than 30 days after July 1 of each year, the
275 commission and each supervisor of elections shall determine
276 which persons required to file a statement of financial
277 interests in their respective offices have failed to do so and
278 shall send delinquency notices by certified mail, return receipt
279 requested, to these ~~such~~ persons. Each notice shall state that a
280 grace period is in effect until September 1 of the current year;
281 that no investigative or disciplinary action based upon the
282 delinquency will be taken by the agency head or commission if
283 the statement is filed by September 1 of the current year; that,
284 if the statement is not filed by September 1 of the current
285 year, a fine of \$25 for each day late will be imposed, up to a
286 maximum penalty of \$1,500; for notices sent by a supervisor of
287 elections, that he or she is required by law to notify the
288 commission of the delinquency; and that, if upon the filing of a
289 sworn complaint the commission finds that the person has failed
290 to timely file the statement within 60 days after September 1 of
291 the current year, such person will also be subject to the
292 penalties provided in s. 112.317.

293 Section 5. Section 112.3147, Florida Statutes, is amended
294 to read:

295 112.3147 Forms.--

296 ~~(1)~~ All information required to be furnished by ss.
297 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149
298 and by s. 8, Art. II of the State Constitution shall be on forms
299 prescribed by the Commission on Ethics.

HB 493

2006
CS

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

311 ~~(b)1. With respect to reporting liabilities valued in~~
312 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~
313 ~~which the reporting individual is jointly and severally liable,~~
314 ~~the amount reported shall be based upon the reporting~~
315 ~~individual's percentage of liability rather than the total~~
316 ~~amount of the liability, except, a joint and several liability~~
317 ~~with the reporting individual's spouse for a debt which relates~~
318 ~~to property owned by both as tenants by the entirety shall be~~
319 ~~reported at 100 percent of the total amount owed.~~

320 ~~2. A separate section of the form shall be created to~~
321 ~~provide for the reporting of the amounts of joint and several~~
322 ~~liability of the reporting individual not otherwise reported in~~
323 ~~paragraph (a).~~

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

326 112.3148 Reporting and prohibited receipt of gifts by
327 individuals filing full or limited public disclosure of
328 financial interests and by procurement employees.--

329 (6)

330 (d) No later than July 1 of each year, each reporting
331 individual or procurement employee shall file a statement
332 listing each gift having a value in excess of \$100 received by
333 the reporting individual or procurement employee, either
334 directly or indirectly, from a governmental entity or a direct-
335 support organization specifically authorized by law to support a
336 governmental entity. The statement shall list the name of the
337 person providing the gift, a description of the gift, the date
338 or dates on which the gift was given, and the value of the total
339 gifts given during the calendar year for which the report is
340 made. The reporting individual or procurement employee shall
341 attach to the ~~such~~ statement any report received by him or her
342 in accordance with paragraph (c), which report shall become a
343 public record when filed with the statement of the reporting
344 individual or procurement employee. The reporting individual or
345 procurement employee may explain any differences between the
346 report of the reporting individual or procurement employee and
347 the attached reports. The annual report filed by a reporting
348 individual shall be filed with the financial disclosure
349 statement required by either s. 8, Art. II of the State
350 Constitution or s. 112.3145, as applicable to the reporting
351 individual. The annual report filed by a procurement employee
352 shall be filed with the Commission on Ethics. The report filed
353 by a reporting individual or procurement employee who left

354 office or employment during the calendar year covered by the
 355 report shall be filed by July 1 of the year after leaving office
 356 or employment at the same location as his or her final financial
 357 disclosure statement or, in the case of a former procurement
 358 employee, with the Commission on Ethics.

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

- 367 1. Gifts from relatives.
- 368 2. Gifts prohibited by subsection (4) or s. 112.313(4).
- 369 3. Gifts otherwise required to be disclosed by this
 370 section.

371 (b) The statement shall include:

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

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

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

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

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

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

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

399 112.3149 Solicitation and disclosure of honoraria.--

400 (6) A reporting individual or procurement employee who
 401 receives payment or provision of expenses related to any
 402 honorarium event from a person who is prohibited by subsection
 403 (4) from paying an honorarium to a reporting individual or
 404 procurement employee shall publicly disclose on an annual
 405 statement the name, address, and affiliation of the person
 406 paying or providing the expenses; the amount of the honorarium
 407 expenses; the date of the honorarium event; a description of the
 408 expenses paid or provided on each day of the honorarium event;
 409 and the total value of the expenses provided to the reporting

HB 493

2006
CS

410 individual or procurement employee in connection with the
411 honorarium event. The annual statement of honorarium expenses
412 shall be filed by July 1 of each year for those ~~such~~ expenses
413 received during the previous calendar year. The reporting
414 individual or procurement employee shall attach to the annual
415 statement a copy of each statement received by him or her in
416 accordance with subsection (5) regarding honorarium expenses
417 paid or provided during the calendar year for which the annual
418 statement is filed. The ~~Such~~ attached statement shall become a
419 public record upon the filing of the annual report. The annual
420 statement of a reporting individual shall be filed with the
421 financial disclosure statement required by either s. 8, Art. II
422 of the State Constitution or s. 112.3145, as applicable to the
423 reporting individual. The annual statement of a procurement
424 employee shall be filed with the Commission on Ethics. The
425 statement filed by a reporting individual or procurement
426 employee who left office or employment during the calendar year
427 covered by the statement shall be filed by July 1 of the year
428 after leaving office or employment at the same location as his
429 or her final financial disclosure statement or, in the case of a
430 former procurement employee, with the Commission on Ethics.

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

433 112.317 Penalties.--

434 (1) Violation of any provision of this part, including,
435 but not limited to, any failure to file any disclosures required
436 by this part or violation of any standard of conduct imposed by
437 this part, or violation of any provision of s. 8, Art. II of the

HB 493

2006
CS

438 State Constitution, in addition to any criminal penalty or other
 439 civil penalty involved, shall, under ~~pursuant to~~ applicable
 440 constitutional and statutory procedures, constitute grounds for,
 441 and may be punished by, one or more of the following:

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

- 443 1. Impeachment.
- 444 2. Removal from office.
- 445 3. Suspension from office.
- 446 4. Public censure and reprimand.
- 447 5. Forfeiture of no more than one-third salary per month
- 448 for no more than 12 months.
- 449 6. A civil penalty not to exceed \$10,000.

450 7. Restitution of any pecuniary benefits received because
 451 of the violation committed. The commission may recommend that
 452 the restitution penalty be paid to the agency of which the
 453 public officer was a member or to the General Revenue Fund.

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

- 457 1. Dismissal from employment.
- 458 2. Suspension from employment for not more than 90 days
- 459 without pay.
- 460 3. Demotion.
- 461 4. Reduction in salary level.
- 462 5. Forfeiture of no more than one-third salary per month
- 463 for no more than 12 months.
- 464 6. A civil penalty not to exceed \$10,000.

HB 493

2006
CS

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

470 8. Public censure and reprimand.

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

- 474 1. Disqualification from being on the ballot.
- 475 2. Public censure.
- 476 3. Reprimand.
- 477 4. A civil penalty not to exceed \$10,000.

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

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

489 (2) In any case in which the commission finds a violation
490 of this part or of s. 8, Art. II of the State Constitution and
491 the proper disciplinary official or body under s. 112.324
492 imposes ~~recommends~~ a civil penalty or restitution penalty, the

HB 493

2006
CS

493 Attorney General shall bring a civil action to recover such
 494 penalty. No defense may be raised in the civil action to enforce
 495 the civil penalty or order of restitution that could have been
 496 raised by judicial review of the administrative findings and
 497 recommendations of the commission by certiorari to the district
 498 court of appeal. The Attorney General shall collect any costs,
 499 attorney's fees, expert witness fees, or other costs of
 500 collection incurred in bringing the action.

501 ~~(6) Any person who willfully discloses, or permits to be~~
 502 ~~disclosed, his or her intention to file a complaint, the~~
 503 ~~existence or contents of a complaint which has been filed with~~
 504 ~~the commission, or any document, action, or proceeding in~~
 505 ~~connection with a confidential preliminary investigation of the~~
 506 ~~commission, before such complaint, document, action, or~~
 507 ~~proceeding becomes a public record as provided herein commits a~~
 508 ~~misdemeanor of the first degree, punishable as provided in s.~~
 509 ~~775.082 or s. 775.083.~~

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

516 (7)~~(8)~~ In any case in which the commission determines that
 517 a person has filed a complaint against a public officer or
 518 employee with a malicious intent to injure the reputation of
 519 such officer or employee by filing the complaint with knowledge
 520 that the complaint contains one or more false allegations or

HB 493

2006
CS

521 with reckless disregard for whether the complaint contains false
 522 allegations of fact material to a violation of this part, the
 523 complainant shall be liable for costs plus reasonable attorney's
 524 fees incurred in the defense of the person complained against,
 525 including the costs and reasonable attorney's fees incurred in
 526 proving entitlement to and the amount of costs and fees. If the
 527 complainant fails to pay such costs and fees voluntarily within
 528 30 days following such finding by the commission, the commission
 529 shall forward such information to the Department of Legal
 530 Affairs, which shall bring a civil action in a court of
 531 competent jurisdiction to recover the amount of such costs and
 532 fees awarded by the commission.

533 Section 9. Section 112.3185, Florida Statutes, is amended
 534 to read:

535 112.3185 Additional standards for state agency employees
 536 ~~Contractual services.~~--

537 (1) For the purposes of this section:

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

540 (b) "Agency" means any state officer, department, board,
 541 commission, or council of the executive or judicial branch of
 542 state government and includes the Public Service Commission.

543 (2) No agency employee who participates through decision,
 544 approval, disapproval, recommendation, preparation of any part
 545 of a purchase request, influencing the content of any
 546 specification or procurement standard, rendering of advice,
 547 investigation, or auditing or in any other advisory capacity in
 548 the procurement of contractual services shall become or be,

HB 493

2006
CS

549 while an agency employee, the employee of a person contracting
550 with the agency by whom the employee is employed.

551 (3) No agency employee shall, after retirement or
552 termination, have or hold any employment or contractual
553 relationship with any business entity other than an agency in
554 connection with any contract in which the agency employee
555 participated personally and substantially through decision,
556 approval, disapproval, recommendation, rendering of advice, or
557 investigation while an officer or employee. When the agency
558 employee's position is eliminated and his or her duties are
559 performed by the business entity, this subsection does not
560 prohibit his or her employment or contractual relationship with
561 the business entity if the employee's participation in the
562 contract was limited to recommendation, rendering of advice, or
563 investigation and if the agency head determines that the best
564 interests of the state will be served thereby and provides prior
565 written approval for the particular employee.

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

HB 493

2006
CS

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

586 (6) No agency employee shall, after retirement or
587 termination, represent or advise for compensation another person
588 or entity, except the state, in any matter in which the employee
589 participated personally and substantially in his or her official
590 capacity through decision, approval, disapproval,
591 recommendation, rendering of advice, investigation, or otherwise
592 while an employee. The term "matter" includes any judicial or
593 other proceeding, application, request for a ruling, or other
594 determination, contract, claim, controversy, investigation,
595 charge, accusation, arrest, or other particular action involving
596 a specific party or parties.

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

603 (8)~~(7)~~ A violation of any provision of this section is
604 punishable in accordance with s. 112.317.

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

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

610 112.321 Membership, terms; travel expenses; staff.--

611 (1) The commission shall be composed of nine members. Five
 612 of these members shall be appointed by the Governor, no more
 613 than three of whom shall be from the same political party,
 614 subject to confirmation by the Senate. One member appointed by
 615 the Governor shall be a former city or county official and may
 616 be a former member of a local planning or zoning board which has
 617 only advisory duties. Two members shall be appointed by the
 618 Speaker of the House of Representatives, and two members shall
 619 be appointed by the President of the Senate. Neither the Speaker
 620 of the House of Representatives nor the President of the Senate
 621 shall appoint more than one member from the same political
 622 party. Of the nine members of the commission, no more than five
 623 members shall be from the same political party at any one time.
 624 No member may hold any public employment. An individual who
 625 qualifies as a lobbyist pursuant to s. 11.045 or s. 112.3215 or
 626 pursuant to any local government charter or ordinance may not
 627 serve as a member of the commission, except that this
 628 prohibition does not apply to an individual who is a member of
 629 the commission on October 1, 2006, until the expiration of his
 630 or her current term. A member of the commission may not lobby
 631 any state or local governmental entity as provided in s. 11.045
 632 or s. 112.3215 or as provided by any local government charter or

HB 493

2006
CS

633 ordinance, except that this prohibition does not apply to an
 634 individual who is a member of the commission on October 1, 2006,
 635 until the expiration of his or her current term. All members
 636 shall serve 2-year terms. No member shall serve more than two
 637 full terms in succession. Any member of the commission may be
 638 removed for cause by majority vote of the Governor, the
 639 President of the Senate, the Speaker of the House of
 640 Representatives, and the Chief Justice of the Supreme Court.

641 Section 11. Paragraph (e) of subsection (5) of section
 642 112.3215, Florida Statutes, as amended by chapter 2005-359, Laws
 643 of Florida, is amended to read:

644 112.3215 Lobbying before the executive branch or the
 645 Constitution Revision Commission; registration and reporting;
 646 investigation by commission.--

647 (5)

648 (e) The commission shall provide by rule the grounds for
 649 waiving a fine, the procedures ~~a procedure~~ by which a lobbying
 650 firm that fails to timely file a report shall be notified and
 651 assessed fines, and the procedure for appealing the fines. The
 652 rule shall provide for the following:

653 1. Upon determining that the report is late, the person
 654 designated to review the timeliness of reports shall immediately
 655 notify the lobbying firm as to the failure to timely file the
 656 report and that a fine is being assessed for each late day. The
 657 fine shall be \$50 per day per report for each late day up to a
 658 maximum of \$5,000 per late report.

HB 493

2006
CS

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

662 a. When a report is actually received by the lobbyist
663 registration and reporting office.

664 b. When the report is postmarked.

665 c. When the certificate of mailing is dated.

666 d. When the receipt from an established courier company is
667 dated.

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

673 4. A fine shall not be assessed against a lobbying firm
674 the first time any reports for which the lobbying firm is
675 responsible are not timely filed. However, to receive the one-
676 time fine waiver, all reports for which the lobbying firm is
677 responsible must be filed within 30 days after the notice that
678 any reports have not been timely filed is transmitted by the
679 Lobbyist Registration Office. A fine shall be assessed for any
680 subsequent late-filed reports.

681 5. Any lobbying firm may appeal or dispute a fine, based
682 upon unusual circumstances surrounding the failure to file on
683 the designated due date, and may request and shall be entitled
684 to a hearing before the commission, which shall have the
685 authority to waive the fine in whole or in part for good cause
686 shown. Any such request shall be made within 30 days after the

HB 493

2006
CS

687 notice of payment due is transmitted by the Lobbyist
688 Registration Office. In such case, the lobbying firm shall,
689 within the 30-day period, notify the person designated to review
690 the timeliness of reports in writing of his or her intention to
691 bring the matter before the commission.

692 6. The person designated to review the timeliness of
693 reports shall notify the commission of the failure of a lobbying
694 firm to file a report after notice or of the failure of a
695 lobbying firm to pay the fine imposed. All lobbyist
696 registrations for lobbyists who are partners, owners, officers,
697 or employees of a lobbying firm that fails to timely pay a fine
698 are automatically suspended until the fine is paid or waived,
699 and the commission shall promptly notify all affected principals
700 of any suspension or reinstatement.

701 7. Notwithstanding any provision of chapter 120, any fine
702 imposed under this subsection that is not waived by final order
703 of the commission and that remains unpaid more than 60 days
704 after the notice of payment due or more than 60 days after the
705 commission renders a final order on the lobbying firm's appeal
706 shall be collected by the Department of Financial Services as a
707 claim, debt, or other obligation owed to the state, and the
708 department may assign the collection of such fine to a
709 collection agent as provided in s. 17.20.

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

712 112.322 Duties and powers of commission.--

713 (4) The commission has the power to subpoena, audit, and
714 investigate. The commission may subpoena witnesses and compel

HB 493

2006
CS

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

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

738 914.21 Definitions.--As used in ss. 914.22-914.24, the
739 term:

740 (3) "Official investigation" means any investigation
741 instituted by a law enforcement agency or prosecuting officer of

HB 493

2006
CS

742 the state or a political subdivision of the state or the
743 Commission on Ethics.

744 (4) "Official proceeding" means:

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

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

747 (c) A proceeding before a federal agency which is
748 authorized by law; ~~or~~

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

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