

## CHAMBER ACTION

1 The Governmental Operations 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 providing definitions; amending s. 112.3144, F.S.;  
22 specifying how assets valued in excess of a specified  
23 amount are to be reported by a reporting individual;

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24 | amending s. 112.3145, F.S.; requiring that a delinquency  
25 | notice be sent to certain officeholders by certified mail,  
26 | return receipt requested; amending s. 112.3147, F.S.;  
27 | deleting provisions relating to the reporting of assets  
28 | valued in excess of a specified amount, to conform;  
29 | amending s. 112.3148, F.S.; providing requirements for  
30 | persons who have left office or employment as to filing a  
31 | report relating to gifts; providing requirements relating  
32 | to the deadline for and timeliness of gift reports;  
33 | amending s. 112.3149, F.S.; requiring that a report of  
34 | honoraria by a person who left office or employment be  
35 | filed by a specified date; amending s. 112.317, F.S.;  
36 | authorizing the commission to recommend a restitution  
37 | penalty be paid to the agency of which the public officer  
38 | was a member or by which the public employee was employed  
39 | or to the General Revenue Fund; authorizing the Attorney  
40 | General to recover costs for filing suit to collect  
41 | penalties and fines; deleting provisions imposing a  
42 | penalty for the disclosure of information concerning a  
43 | complaint or an investigation; amending s. 112.3185, F.S.;  
44 | providing additional standards for state agency employees  
45 | relating to procurement of goods and services by a state  
46 | agency; authorizing an employee whose position was  
47 | eliminated to engage in certain contractual activities;  
48 | amending s. 112.321, F.S.; prohibiting an individual who  
49 | qualifies as a lobbyist from serving on the commission;  
50 | prohibiting a member of the commission from lobbying any  
51 | state or local governmental entity; providing exceptions

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

68 |

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

70 |

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

75 | 104.31 Political activities of state, county, and  
 76 | municipal officers and employees.--

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

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

83 112.313 Standards of conduct for public officers,  
84 employees of agencies, and local government attorneys.--

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

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

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

100 2. As used in this paragraph:

101 a. "Employee" means:

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

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

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

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

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

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

132 b. "Appointed state officer" means any member of an  
133 appointive board, commission, committee, council, or authority  
134 of the executive or legislative branch of state government whose  
135 powers, jurisdiction, and authority are not solely advisory and

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136 include the final determination or adjudication of any personal  
137 or property rights, duties, or obligations, other than those  
138 relative to its internal operations.

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

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

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

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

160 6. This paragraph is not applicable to:

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

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

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

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

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

175 7. This paragraph does not apply to an agency employee who  
176 was employed on July 1, 2001, in a Career Service System  
177 position that was transferred to the Selected Exempt Service  
178 System under chapter 2001-43, Laws of Florida.

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

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190 shall be held in violation of subsection (3) or subsection (7)  
191 if:

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

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

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

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

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

217        (a) The "government body or agency" of a member of a board  
218 of county commissioners consists of the commission, the chief  
219 administrative officer or employee of the county, and their  
220 immediate support staff.

221        (b) The "government body or agency" of any other county  
222 elected officer is the office or department headed by that  
223 officer, including all subordinate employees.

224        (c) The "government body or agency" of an elected  
225 municipal officer consists of the governing body of the  
226 municipality, the chief administrative officer or employee of  
227 the municipality, and their immediate support staff.

228        (d) The "government body or agency" of an elected special  
229 district officer is the special district.

230        (e) The "government body or agency" of an elected school  
231 district officer is the school district.

232        Section 3. Present subsections (4), (5), and (6) of  
233 section 112.3144, Florida Statutes, are renumbered as  
234 subsections (5), (6), and (7), respectively, paragraph (g) of  
235 present subsection (4) is amended, and a new subsection (4) is  
236 added to that section, to read:

237        112.3144 Full and public disclosure of financial  
238 interests.--

239        (4) (a) With respect to reporting, on forms prescribed  
240 under this section, assets valued in excess of \$1,000 that the  
241 reporting individual holds jointly with another person, the  
242 amount reported shall be based on the reporting individual's  
243 legal percentage of ownership in the property. However, assets  
244 that are held jointly with right of survivorship must be

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245 reported at 100 percent of the value of the asset. For purposes  
246 of this subsection, a reporting individual is deemed to own a  
247 percentage of a partnership that is equal to the reporting  
248 individual's interest in the capital or equity of the  
249 partnership.

250 (b)1. With respect to reporting, on forms prescribed under  
251 this section, liabilities valued in excess of \$1,000 for which  
252 the reporting individual is jointly and severally liable, the  
253 amount reported shall be based on the reporting individual's  
254 percentage of liability rather than the total amount of the  
255 liability. However, liability for a debt that is secured by  
256 property owned by the reporting individual but that is held  
257 jointly with right of survivorship must be reported at 100  
258 percent of the total amount owed.

259 2. A separate section of the form shall be created to  
260 provide for the reporting of the amounts of joint and several  
261 liability of the reporting individual not otherwise reported in  
262 subparagraph 1.

263 (5)-(4) Forms for compliance with the full and public  
264 disclosure requirements of s. 8, Art. II of the State  
265 Constitution shall be created by the Commission on Ethics. The  
266 commission shall give notice of disclosure deadlines and  
267 delinquencies and distribute forms in the following manner:

268 (g) The notification requirements and fines of this  
269 subsection do not apply to candidates or to the first filing  
270 required of any person appointed to elective constitutional  
271 office or other position required to file full and public  
272 disclosure, unless the person's name is on the commission's

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273 notification list and the person received notification from the  
274 commission. The appointing official shall notify such newly  
275 appointed person of the obligation to file full and public  
276 disclosure by July 1. The notification requirements and fines of  
277 this subsection do not apply to the final filing provided for in  
278 subsection (6)~~(5)~~.

279 Section 4. Paragraph (c) of subsection (6) of section  
280 112.3145, Florida Statutes, is amended to read:

281 112.3145 Disclosure of financial interests and clients  
282 represented before agencies.--

283 (6) Forms for compliance with the disclosure requirements  
284 of this section and a current list of persons subject to  
285 disclosure shall be created by the commission and provided to  
286 each supervisor of elections. The commission and each supervisor  
287 of elections shall give notice of disclosure deadlines and  
288 delinquencies and distribute forms in the following manner:

289 (c) Not later than 30 days after July 1 of each year, the  
290 commission and each supervisor of elections shall determine  
291 which persons required to file a statement of financial  
292 interests in their respective offices have failed to do so and  
293 shall send delinquency notices by certified mail, return receipt  
294 requested, to these ~~such~~ persons. Each notice shall state that a  
295 grace period is in effect until September 1 of the current year;  
296 that no investigative or disciplinary action based upon the  
297 delinquency will be taken by the agency head or commission if  
298 the statement is filed by September 1 of the current year; that,  
299 if the statement is not filed by September 1 of the current  
300 year, a fine of \$25 for each day late will be imposed, up to a

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301 maximum penalty of \$1,500; for notices sent by a supervisor of  
 302 elections, that he or she is required by law to notify the  
 303 commission of the delinquency; and that, if upon the filing of a  
 304 sworn complaint the commission finds that the person has failed  
 305 to timely file the statement within 60 days after September 1 of  
 306 the current year, such person will also be subject to the  
 307 penalties provided in s. 112.317.

308 Section 5. Section 112.3147, Florida Statutes, is amended  
 309 to read:

310 112.3147 Forms.--

311 ~~(1)~~ All information required to be furnished by ss.  
 312 112.313, 112.3143, 112.3144, 112.3145, 112.3148, and 112.3149  
 313 and by s. 8, Art. II of the State Constitution shall be on forms  
 314 prescribed by the Commission on Ethics.

315 ~~(2)(a) With respect to reporting assets valued in excess~~  
 316 ~~of \$1,000 on forms prescribed pursuant to s. 112.3144 which the~~  
 317 ~~reporting individual holds jointly with another person, the~~  
 318 ~~amount reported shall be based on the reporting individual's~~  
 319 ~~legal percentage of ownership in the property, except that~~  
 320 ~~assets held jointly with the reporting individual's spouse shall~~  
 321 ~~be reported at 100 percent of the value of the asset. For~~  
 322 ~~purposes of this subsection, a reporting individual is deemed to~~  
 323 ~~own an interest in a partnership which corresponds to the~~  
 324 ~~reporting individual's interest in the capital or equity of the~~  
 325 ~~partnership.~~

326 ~~(b)1. With respect to reporting liabilities valued in~~  
 327 ~~excess of \$1,000 on forms prescribed pursuant to s. 112.3144 for~~  
 328 ~~which the reporting individual is jointly and severally liable,~~

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329 ~~the amount reported shall be based upon the reporting~~  
330 ~~individual's percentage of liability rather than the total~~  
331 ~~amount of the liability, except, a joint and several liability~~  
332 ~~with the reporting individual's spouse for a debt which relates~~  
333 ~~to property owned by both as tenants by the entirety shall be~~  
334 ~~reported at 100 percent of the total amount owed.~~

335 ~~2. A separate section of the form shall be created to~~  
336 ~~provide for the reporting of the amounts of joint and several~~  
337 ~~liability of the reporting individual not otherwise reported in~~  
338 ~~paragraph (a).~~

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

341 112.3148 Reporting and prohibited receipt of gifts by  
342 individuals filing full or limited public disclosure of  
343 financial interests and by procurement employees.--

344 (6)

345 (d) No later than July 1 of each year, each reporting  
346 individual or procurement employee shall file a statement  
347 listing each gift having a value in excess of \$100 received by  
348 the reporting individual or procurement employee, either  
349 directly or indirectly, from a governmental entity or a direct-  
350 support organization specifically authorized by law to support a  
351 governmental entity. The statement shall list the name of the  
352 person providing the gift, a description of the gift, the date  
353 or dates on which the gift was given, and the value of the total  
354 gifts given during the calendar year for which the report is  
355 made. The reporting individual or procurement employee shall  
356 attach to the ~~such~~ statement any report received by him or her

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357 in accordance with paragraph (c), which report shall become a  
358 public record when filed with the statement of the reporting  
359 individual or procurement employee. The reporting individual or  
360 procurement employee may explain any differences between the  
361 report of the reporting individual or procurement employee and  
362 the attached reports. The annual report filed by a reporting  
363 individual shall be filed with the financial disclosure  
364 statement required by either s. 8, Art. II of the State  
365 Constitution or s. 112.3145, as applicable to the reporting  
366 individual. The annual report filed by a procurement employee  
367 shall be filed with the Commission on Ethics. The report filed  
368 by a reporting individual or procurement employee who left  
369 office or employment during the calendar year covered by the  
370 report shall be filed by July 1 of the year after leaving office  
371 or employment at the same location as his or her final financial  
372 disclosure statement or, in the case of a former procurement  
373 employee, with the Commission on Ethics.

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

- 382 1. Gifts from relatives.
- 383 2. Gifts prohibited by subsection (4) or s. 112.313(4).

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384 3. Gifts otherwise required to be disclosed by this  
385 section.

386 (b) The statement shall include:

387 1. A description of the gift, the monetary value of the  
388 gift, the name and address of the person making the gift, and  
389 the dates thereof. If any of these facts, other than the gift  
390 description, are unknown or not applicable, the report shall so  
391 state.

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

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

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

400 (e) Statements must be filed not later than 5 p.m. on the  
401 due date. However, any statement that is postmarked by the  
402 United States Postal Service by midnight on the due date is  
403 deemed to have been filed in a timely manner, and a certificate  
404 of mailing obtained from and dated by the United States Postal  
405 Service at the time of the mailing, or a receipt from an  
406 established courier company that bears a date on or before the  
407 due date, constitutes proof of mailing in a timely manner.

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

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

414 112.3149 Solicitation and disclosure of honoraria.--

415 (6) A reporting individual or procurement employee who  
416 receives payment or provision of expenses related to any  
417 honorarium event from a person who is prohibited by subsection  
418 (4) from paying an honorarium to a reporting individual or  
419 procurement employee shall publicly disclose on an annual  
420 statement the name, address, and affiliation of the person  
421 paying or providing the expenses; the amount of the honorarium  
422 expenses; the date of the honorarium event; a description of the  
423 expenses paid or provided on each day of the honorarium event;  
424 and the total value of the expenses provided to the reporting  
425 individual or procurement employee in connection with the  
426 honorarium event. The annual statement of honorarium expenses  
427 shall be filed by July 1 of each year for those ~~such~~ expenses  
428 received during the previous calendar year. The reporting  
429 individual or procurement employee shall attach to the annual  
430 statement a copy of each statement received by him or her in  
431 accordance with subsection (5) regarding honorarium expenses  
432 paid or provided during the calendar year for which the annual  
433 statement is filed. The ~~Such~~ attached statement shall become a  
434 public record upon the filing of the annual report. The annual  
435 statement of a reporting individual shall be filed with the  
436 financial disclosure statement required by either s. 8, Art. II  
437 of the State Constitution or s. 112.3145, as applicable to the  
438 reporting individual. The annual statement of a procurement  
439 employee shall be filed with the Commission on Ethics. The

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440 statement filed by a reporting individual or procurement  
441 employee who left office or employment during the calendar year  
442 covered by the statement shall be filed by July 1 of the year  
443 after leaving office or employment at the same location as his  
444 or her final financial disclosure statement or, in the case of a  
445 former procurement employee, with the Commission on Ethics.

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

448 112.317 Penalties.--

449 (1) Violation of any provision of this part, including,  
450 but not limited to, any failure to file any disclosures required  
451 by this part or violation of any standard of conduct imposed by  
452 this part, or violation of any provision of s. 8, Art. II of the  
453 State Constitution, in addition to any criminal penalty or other  
454 civil penalty involved, shall, under ~~pursuant to~~ applicable  
455 constitutional and statutory procedures, constitute grounds for,  
456 and may be punished by, one or more of the following:

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

- 458 1. Impeachment.
- 459 2. Removal from office.
- 460 3. Suspension from office.
- 461 4. Public censure and reprimand.
- 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.
- 465 7. Restitution of any pecuniary benefits received because  
466 of the violation committed. The commission may recommend that

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467 | the restitution penalty be paid to the agency of which the  
468 | public officer was a member or to the General Revenue Fund.

469 | (b) In the case of an employee or a person designated as a  
470 | public officer by this part who otherwise would be deemed to be  
471 | an employee:

472 | 1. Dismissal from employment.

473 | 2. Suspension from employment for not more than 90 days  
474 | without pay.

475 | 3. Demotion.

476 | 4. Reduction in salary level.

477 | 5. Forfeiture of no more than one-third salary per month  
478 | for no more than 12 months.

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

480 | 7. 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 | 8. Public censure and reprimand.

486 | (c) In the case of a candidate who violates the provisions  
487 | of this part or s. 8(a) and (i), Art. II of the State  
488 | Constitution:

489 | 1. Disqualification from being on the ballot.

490 | 2. Public censure.

491 | 3. Reprimand.

492 | 4. A civil penalty not to exceed \$10,000.

493 | (d) In the case of a former public officer or employee who  
494 | has violated a provision applicable to former officers or

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495 employees or whose violation occurred before the ~~prior to such~~  
496 officer's or employee's leaving public office or employment:

- 497 1. Public censure and reprimand.
- 498 2. A civil penalty not to exceed \$10,000.
- 499 3. Restitution of any pecuniary benefits received because  
500 of the violation committed. The commission may recommend that  
501 the restitution penalty be paid to the agency by which the  
502 public employee was employed, or of which the officer was deemed  
503 to be an employee, or to the General Revenue Fund.

504 (2) In any case in which the commission finds a violation  
505 of this part or of s. 8, Art. II of the State Constitution and  
506 the proper disciplinary official or body under s. 112.324  
507 imposes ~~recommends~~ a civil penalty or restitution penalty, the  
508 Attorney General shall bring a civil action to recover such  
509 penalty. No defense may be raised in the civil action to enforce  
510 the civil penalty or order of restitution that could have been  
511 raised by judicial review of the administrative findings and  
512 recommendations of the commission by certiorari to the district  
513 court of appeal. The Attorney General shall collect any costs,  
514 attorney's fees, expert witness fees, or other costs of  
515 collection incurred in bringing the action.

516 ~~(6) Any person who willfully discloses, or permits to be~~  
517 ~~disclosed, his or her intention to file a complaint, the~~  
518 ~~existence or contents of a complaint which has been filed with~~  
519 ~~the commission, or any document, action, or proceeding in~~  
520 ~~connection with a confidential preliminary investigation of the~~  
521 ~~commission, before such complaint, document, action, or~~  
522 ~~proceeding becomes a public record as provided herein commits a~~

523 ~~misdemeanor of the first degree, punishable as provided in s.~~  
524 ~~775.082 or s. 775.083.~~

525 (6)~~(7)~~ In any case in which the commission finds probable  
526 cause to believe that a complainant has committed perjury in  
527 regard to any document filed with, or any testimony given  
528 before, the commission, it shall refer such evidence to the  
529 appropriate law enforcement agency for prosecution and taxation  
530 of costs.

531 (7)~~(8)~~ In any case in which the commission determines that  
532 a person has filed a complaint against a public officer or  
533 employee with a malicious intent to injure the reputation of  
534 such officer or employee by filing the complaint with knowledge  
535 that the complaint contains one or more false allegations or  
536 with reckless disregard for whether the complaint contains false  
537 allegations of fact material to a violation of this part, the  
538 complainant shall be liable for costs plus reasonable attorney's  
539 fees incurred in the defense of the person complained against,  
540 including the costs and reasonable attorney's fees incurred in  
541 proving entitlement to and the amount of costs and fees. If the  
542 complainant fails to pay such costs and fees voluntarily within  
543 30 days following such finding by the commission, the commission  
544 shall forward such information to the Department of Legal  
545 Affairs, which shall bring a civil action in a court of  
546 competent jurisdiction to recover the amount of such costs and  
547 fees awarded by the commission.

548 Section 9. Section 112.3185, Florida Statutes, is amended  
549 to read:

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550 | 112.3185 Additional standards for state agency employees

551 | ~~Contractual services.~~--

552 | (1) For the purposes of this section:

553 | (a) "Contractual services" shall be defined as set forth  
554 | in chapter 287.

555 | (b) "Agency" means any state officer, department, board,  
556 | commission, or council of the executive or judicial branch of  
557 | state government and includes the Public Service Commission.

558 | (2) No agency employee who participates through decision,  
559 | approval, disapproval, recommendation, preparation of any part  
560 | of a purchase request, influencing the content of any  
561 | specification or procurement standard, rendering of advice,  
562 | investigation, or auditing or in any other advisory capacity in  
563 | the procurement of contractual services shall become or be,  
564 | while an agency employee, the employee of a person contracting  
565 | with the agency by whom the employee is employed.

566 | (3) No agency employee shall, after retirement or  
567 | termination, have or hold any employment or contractual  
568 | relationship with any business entity other than an agency in  
569 | connection with any contract in which the agency employee  
570 | participated personally and substantially through decision,  
571 | approval, disapproval, recommendation, rendering of advice, or  
572 | investigation while an officer or employee. When the agency  
573 | employee's position is eliminated and his or her duties are  
574 | performed by the business entity, this subsection does not  
575 | prohibit his or her employment or contractual relationship with  
576 | the business entity if the employee's participation in the  
577 | contract was limited to recommendation, rendering of advice, or

578 | investigation and if the agency head determines that the best  
 579 | interests of the state will be served thereby and provides prior  
 580 | written approval for the particular employee.

581 | (4) No agency employee shall, within 2 years after  
 582 | retirement or termination, have or hold any employment or  
 583 | contractual relationship with any business entity other than an  
 584 | agency in connection with any contract for contractual services  
 585 | which was within his or her responsibility while an employee. If  
 586 | the agency employee's position is eliminated and his or her  
 587 | duties are performed by the business entity, the provisions of  
 588 | this subsection may be waived by the agency head through prior  
 589 | written approval for a particular employee if the agency head  
 590 | determines that the best interests of the state will be served  
 591 | thereby.

592 | (5) The sum of money paid to a former agency employee  
 593 | during the first year after the cessation of his or her  
 594 | responsibilities, by the agency with whom he or she was  
 595 | employed, for contractual services provided to the agency, shall  
 596 | not exceed the annual salary received on the date of cessation  
 597 | of his or her responsibilities. ~~The provisions of This~~  
 598 | subsection may be waived by the agency head for a particular  
 599 | contract if the agency head determines that such waiver will  
 600 | result in significant time or cost savings for the state.

601 | (6) No agency employee acting in an official capacity  
 602 | shall directly or indirectly procure contractual services for  
 603 | his or her own agency from any business entity of which a  
 604 | relative is an officer, partner, director, or proprietor or in

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605 | which ~~the such~~ officer or employee or his or her spouse or  
606 | child, or any combination of them, has a material interest.

607 | (7) A violation of any provision of this section is  
608 | punishable in accordance with s. 112.317.

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

612 | Section 10. Subsection (1) of section 112.321, Florida  
613 | Statutes, is amended to read:

614 | 112.321 Membership, terms; travel expenses; staff.--

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

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633 | the commission on October 1, 2006, until the expiration of his  
 634 | or her current term. A member of the commission may not lobby  
 635 | any state or local governmental entity as provided in s. 11.045  
 636 | or s. 112.3215 or as provided by any local government charter or  
 637 | ordinance, except that this prohibition does not apply to an  
 638 | individual who is a member of the commission on October 1, 2006,  
 639 | until the expiration of his or her current term. All members  
 640 | shall serve 2-year terms. No member shall serve more than two  
 641 | full terms in succession. Any member of the commission may be  
 642 | removed for cause by majority vote of the Governor, the  
 643 | President of the Senate, the Speaker of the House of  
 644 | Representatives, and the Chief Justice of the Supreme Court.

645 |       Section 11. Paragraph (e) of subsection (5) of section  
 646 | 112.3215, Florida Statutes, as amended by chapter 2005-359, Laws  
 647 | of Florida, is amended to read:

648 |       112.3215 Lobbying before the executive branch or the  
 649 | Constitution Revision Commission; registration and reporting;  
 650 | investigation by commission.--

651 |       (5)

652 |       (e) The commission shall provide by rule the grounds for  
 653 | waiving a fine, the procedures a procedure by which a lobbying  
 654 | firm that fails to timely file a report shall be notified and  
 655 | assessed fines, and the procedure for appealing the fines. The  
 656 | rule shall provide for the following:

657 |       1. Upon determining that the report is late, the person  
 658 | designated to review the timeliness of reports shall immediately  
 659 | notify the lobbying firm as to the failure to timely file the  
 660 | report and that a fine is being assessed for each late day. The

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661 fine shall be \$50 per day per report for each late day up to a  
662 maximum of \$5,000 per late report.

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

666 a. When a report is actually received by the lobbyist  
667 registration and reporting office.

668 b. When the report is postmarked.

669 c. When the certificate of mailing is dated.

670 d. When the receipt from an established courier company is  
671 dated.

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

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

685 5. Any lobbying firm may appeal or dispute a fine, based  
686 upon unusual circumstances surrounding the failure to file on  
687 the designated due date, and may request and shall be entitled  
688 to a hearing before the commission, which shall have the

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689 authority to waive the fine in whole or in part for good cause  
 690 shown. Any such request shall be made within 30 days after the  
 691 notice of payment due is transmitted by the Lobbyist  
 692 Registration Office. In such case, the lobbying firm shall,  
 693 within the 30-day period, notify the person designated to review  
 694 the timeliness of reports in writing of his or her intention to  
 695 bring the matter before the commission.

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

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

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

716 112.322 Duties and powers of commission.--

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

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

742 914.21 Definitions.--As used in ss. 914.22-914.24, the  
743 term:

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744 (3) "Official investigation" means any investigation  
745 instituted by a law enforcement agency or prosecuting officer of  
746 the state or a political subdivision of the state or the  
747 Commission on Ethics.

748 (4) "Official proceeding" means:

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

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

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

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

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