

By Senator Lawson

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1 A bill to be entitled
2 An act relating to standards of conduct; amending s.
3 112.313, F.S.; revising the definition of "public
4 officer"; revising provisions prohibiting doing
5 business with one's agency; providing applicability to
6 units of government and persons related to or having a
7 specified relationship with a public officer or
8 employee; expanding the list of persons who have a
9 relationship with a public officer or employee who may
10 not accept compensation given to influence a vote or
11 action; expanding the list of entities with which a
12 public officer or employee may not have a conflicting
13 employment or contractual relationship and expanding
14 the prohibition to include certain association or
15 affiliation; providing that a public officer may not
16 represent or advocate on behalf of an entity before a
17 legislative, advisory, or regulatory body of which the
18 public official is a member; prohibiting elective
19 public officers of state, county, or municipal
20 legislative, advisory, or regulatory bodies from
21 maintaining certain forms of employment or
22 relationships with organizations whose purposes might
23 be advanced or benefited by acts of the body of which
24 the public officer is a member, from lobbying other
25 state, county, or municipal legislative, advisory, or
26 regulatory bodies or agencies on behalf or for the
27 benefit of private parties, or from serving in certain
28 advisory capacities that advocate on behalf of private
29 parties under certain circumstances; prohibiting a

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30 member of the Legislature from representing persons or
31 entities before certain governing or legislative
32 bodies or agencies; prohibiting a member of the
33 Legislature, an appointed state officer, an employee
34 of the legislative branch, or a member of any state
35 regulatory body from appearing, representing, or
36 advocating on behalf of a person or entity before the
37 body of which the individual is an officer, employee,
38 or member, from having any employment, relationship,
39 or affiliation with any entity that appears before the
40 body of which the individual is an employee or member
41 or in which the business or interests of the entity
42 might be advanced by action of the legislative body of
43 which the individual is an employee or member, from
44 having any employment or association with any entity
45 that lobbies or appears or advocates before the
46 legislative body of which the person is an employee or
47 member, or from being employed by or associated with
48 any entity that provides advisory services before the
49 legislative body of which the individual is an
50 employee or member; prohibiting elective public
51 officers of certain entities from lobbying before
52 other such entities for the benefit of private parties
53 or from serving as advisers to private parties when
54 the purpose of the position is to lobby elected
55 members for the benefit of the private party; amending
56 s. 112.316, F.S.; revising construction of the code of
57 ethics for public officers and employees; clarifying
58 intent that public officers or certain employees may

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59 not accept certain lobbying, consulting, or advisory
60 roles; amending s. 112.317, F.S.; providing criminal
61 penalties for violations of the code of ethics for
62 public officers and employees; amending s. 420.5061,
63 F.S.; conforming a cross-reference; providing an
64 effective date.

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

67
68 Section 1. Subsections (1), (3), (4), (7), and (9) of
69 section 112.313, Florida Statutes, are amended to read:

70 112.313 Standards of conduct for public officers, employees
71 of agencies, and local government attorneys.—

72 (1) DEFINITION.—As used in this section, unless the context
73 otherwise requires, the term “public officer” includes:

74 (a) Any person elected to any state, county, or municipal
75 office or position.

76 (b) Any person ~~or~~ appointed to or holding any position held
77 office in any state, county, or municipal agency or board who is
78 vested with any delegated legislative or quasi-legislative
79 authority, including any person serving on any ~~an~~ advisory body.

80 (3) DOING BUSINESS WITH ONE’S AGENCY.—No public officer or
81 employee of an agency acting in his or her official capacity as
82 a purchasing agent, or public officer acting in his or her
83 official capacity, shall either directly or indirectly purchase,
84 rent, or lease any realty, goods, or services for his or her own
85 unit of government or agency from any business entity or
86 organization of which the officer or employee or the officer’s
87 or employee’s spouse, ~~or~~ child, or other relative, including any

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88 person with whom the public officer or employee has or maintains
89 a cohabitational, intimate, or financially beneficial or
90 dependent relationship, is an officer, partner, director, or
91 proprietor or in which such officer or employee or the officer's
92 or employee's spouse, ~~or~~ child, or other relative, including any
93 person with whom the public officer or employee has or maintains
94 a cohabitational, intimate, or financially beneficial or
95 dependent relationship, or any combination of them, has a
96 material interest. ~~Nor shall~~ A public officer or employee or the
97 officer's or employee's spouse, child, or other relative,
98 including any person with whom the public officer or employee
99 has or maintains a cohabitational, intimate, or financially
100 beneficial or dependent relationship, acting in a private
101 capacity, shall not rent, lease, or sell any realty, goods, or
102 services to the ~~officer's or employee's own~~ agency, ~~if he or she~~
103 ~~is a state officer or employee,~~ or to any political subdivision
104 or any agency thereof served by that public, if he or she is
105 ~~serving as an officer or employee of that political subdivision.~~
106 The foregoing shall not apply to district offices maintained by
107 legislators when such offices are located in the legislator's
108 place of business or when such offices are on property wholly or
109 partially owned by the legislator. This subsection shall not
110 affect or be construed to prohibit contracts entered into prior
111 to:

- 112 (a) October 1, 1975.
113 (b) Qualification for elective office.
114 (c) Appointment to public office.
115 (d) Beginning public employment.
116 (4) UNAUTHORIZED COMPENSATION.—No public officer, employee

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117 of an agency, or local government attorney or his or her spouse
118 or minor child or other relative, including any person with whom
119 the public officer or employee has or maintains a
120 cohabitational, intimate, or financially dependent relationship,
121 shall, at any time, accept any compensation, payment, or thing
122 of value when such public officer, employee, or local government
123 attorney or other person knows, or, with the exercise of
124 reasonable care, should know, that it was given to influence a
125 vote or other action in which the officer, employee, or local
126 government attorney was expected to participate in his or her
127 official capacity.

128 (7) CONFLICTING EMPLOYMENT, ASSOCIATION, AFFILIATION, OR
129 CONTRACTUAL RELATIONSHIP.—

130 (a) No public officer or employee of an agency shall have
131 or hold any employment, association, affiliation, or contractual
132 relationship with any business or professional entity, firm,
133 association, or organization or any agency which is subject to
134 the regulation of, or is doing business with, an agency of which
135 he or she is an officer or employee, excluding those
136 organizations and their officers who, when acting in their
137 official capacity, enter into or negotiate a collective
138 bargaining contract with the state or any municipality, county,
139 or other political subdivision of the state; nor shall an
140 officer or employee of an agency have or hold any employment, ~~or~~
141 contractual, or professional relationship, association, or
142 affiliation that will create a continuing or frequently
143 recurring conflict between his or her private interests and the
144 performance of his or her public duties or that would impede the
145 full and faithful discharge of his or her public duties or

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146 create the appearance of a conflict or impropriety.

147 1. When the agency referred to is that certain kind of
148 special tax district created by general or special law and is
149 limited specifically to constructing, maintaining, managing, and
150 financing improvements in the land area over which the agency
151 has jurisdiction, or when the agency has been organized pursuant
152 to chapter 298, then employment with, or entering into a
153 contractual relationship with, such business entity by a public
154 officer or employee of such agency shall not be prohibited by
155 this subsection or be deemed a conflict per se. However, conduct
156 by such officer or employee that is prohibited by, or otherwise
157 frustrates the intent of, this section shall be deemed a
158 conflict of interest in violation of the standards of conduct
159 set forth by this section.

160 2. When the agency referred to is a legislative body and
161 the regulatory power over the business entity resides in another
162 agency, or when the regulatory power which the legislative body
163 exercises over the business entity or agency is strictly through
164 the enactment of laws or ordinances, then employment or a
165 contractual relationship with such business entity by a public
166 officer or employee of a legislative body shall not be
167 prohibited by this subsection or be deemed a conflict.

168 (b) This subsection shall not prohibit a public officer or
169 employee from practicing in a particular profession or
170 occupation when such practice by persons holding such public
171 office or employment is required or permitted by law or
172 ordinance, provided that the public officer or employee does not
173 have or maintain any kind of employment, association, or
174 affiliation with any professional or business firm, entity,

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175 association, or organization that engages in, provides, or
176 renders any services that may encompass any kind of
177 representation or advocacy before the legislative or regulatory
178 body of which the public officer or employee is a member.

179 (c) No public officer in an elective office of any state,
180 county, or municipal legislative or regulatory body shall have,
181 maintain, or hold any kind of employment, or professional or
182 business relationship, association, or affiliation of any kind,
183 or any contractual relationship with any individual, business or
184 professional entity, firm, association, or organization the
185 business, financial, or professional operations, affairs,
186 undertakings, interests, endeavors, or services of which are
187 affected, are in any manner advanced, or may in any manner be
188 benefited by any act of the legislative body of which the public
189 officer is a part or member. The proscription in this paragraph
190 is intended to prohibit public officers who are in an elective
191 office of any state, county, or municipal legislative or
192 regulatory body from being engaged, retained, hired, or employed
193 in any capacity as a consultant, lobbyist, counselor, or adviser
194 to any individual, entity, organization, firm, or association
195 that advocates or promotes any legislative action or that
196 receives funding from or as a consequence of any legislative
197 action of the legislative or regulatory body of which the public
198 officer is a part or member. However, the proscription in this
199 paragraph shall not prohibit passive membership, affiliation, or
200 association with any professional, trade, religious, or
201 fraternal association which is not operated for profit, is not a
202 political action committee, and does not provide any financial
203 compensation or benefits to its members.

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204 (d) A public officer in an elective office of any state,
205 county, or municipal legislative, advisory, or regulatory body
206 is prohibited from:

207 1. Lobbying any other state, county, or municipal
208 legislative, advisory, or regulatory body or agency on behalf or
209 for the benefit of any private individual, entity, firm, or
210 organization; or

211 2. Being hired, employed, retained, or otherwise acting as
212 an adviser, consultant, or counselor to, or an advocate for or
213 on behalf of, any private individual, entity, or organization
214 when the intent, subject, purpose, or object of the engagement,
215 employment, or position is to lobby any other state, county, or
216 municipal legislative, advisory, or regulatory body or agency on
217 behalf or for the benefit of any private individual, entity,
218 firm, or organization.

219 (9) POSTEMPLOYMENT RESTRICTIONS; STANDARDS OF CONDUCT FOR
220 LEGISLATORS AND LEGISLATIVE EMPLOYEES.—

221 (a)1. It is the intent of the Legislature to implement by
222 statute the provisions of s. 8(e), Art. II of the State
223 Constitution relating to legislators, statewide elected
224 officers, appointed state officers, and designated public
225 employees.

226 2. As used in this paragraph:

227 a. "Employee" means:

228 (I) Any person employed in the executive or legislative
229 branch of government holding a position in the Senior Management
230 Service as defined in s. 110.402 or any person holding a
231 position in the Selected Exempt Service as defined in s. 110.602
232 or any person having authority over policy or procurement

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233 employed by the Department of the Lottery.

234 (II) The Auditor General, the director of the Office of
235 Program Policy Analysis and Government Accountability, the
236 Sergeant at Arms and Secretary of the Senate, and the Sergeant
237 at Arms and Clerk of the House of Representatives.

238 (III) The executive director of the Legislative Committee
239 on Intergovernmental Relations and the executive director and
240 deputy executive director of the Commission on Ethics.

241 (IV) An executive director, staff director, or deputy staff
242 director of each joint committee, standing committee, or select
243 committee of the Legislature; an executive director, staff
244 director, executive assistant, analyst, or attorney of the
245 Office of the President of the Senate, the Office of the Speaker
246 of the House of Representatives, the Senate Majority Party
247 Office, Senate Minority Party Office, House Majority Party
248 Office, or House Minority Party Office; or any person, hired on
249 a contractual basis, having the power normally conferred upon
250 such persons, by whatever title.

251 (V) The Chancellor and Vice Chancellors of the State
252 University System; the general counsel to the Board of Governors
253 of the State University System; and the president, provost, vice
254 presidents, and deans of each state university.

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

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

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262 include the final determination or adjudication of any personal
263 or property rights, duties, or obligations, other than those
264 relative to its internal operations.

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

268 3. No member of the Legislature, appointed state officer,
269 or statewide elected officer shall personally represent another
270 person or entity for compensation before the government body or
271 agency of which the individual was an officer or member for a
272 period of 2 years following vacation of office. No member of the
273 Legislature shall personally represent another person or entity
274 ~~for compensation~~ during his or her term of office before the
275 governing or legislative body of a county, municipality, special
276 district, or school district; before any state agency other than
277 judicial tribunals or in settlement negotiations after the
278 filing of a lawsuit; or before Congress or any agency of the
279 Federal Government.

280 4. No member of the Legislature, appointed state officer,
281 employee of the legislative branch, or member of any state
282 regulatory body shall:

283 a. Appear on behalf of, or represent or advocate in favor
284 or on behalf of, another person or entity before the government
285 body or agency of which the individual is an officer, employee,
286 or member;

287 b. Have, maintain, or hold any employment, position, or
288 professional or business relationship, association, or
289 affiliation of any kind or any contractual relationship with any
290 business or professional entity, firm, association, or

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291 organization that appears before the body of which the
292 individual is an employee or member or the business or
293 professional operations, affairs, interests, undertakings,
294 services, or endeavors of which are advanced, or may be
295 benefited, in any degree, by any act of the legislative body of
296 which the individual is an employee or member;

297 c. Have, maintain, or hold any employment, position, or
298 professional or business relationship or association or
299 affiliation of any kind with any business or professional
300 entity, firm, association, or organization that lobbies or
301 appears or advocates before the legislative body of which such
302 individual is an employee or member or which otherwise
303 represents individuals or business entities before the
304 legislative body of which the individual is an employee or
305 member with the intent, design, purpose, or objective of
306 promoting, advancing, or causing any positive, favorable, or
307 negative action or vote by such legislative body, including the
308 passage, amendment, modification, or nonpassage or veto of any
309 proposed law or legislative enactment; or

310 d. Have, maintain, or hold any employment or position as a
311 consultant, counselor, attorney, or adviser to any individual,
312 entity, firm, association, or organization that provides or
313 renders services representing or advocating on behalf or for the
314 benefit of any individual, organization, or entity before the
315 legislative body of which such individual is an employee or
316 member, or which represents, lobbies, or appears or advocates
317 before the legislative body of which such individual is an
318 employee or member or which otherwise represents individuals or
319 business entities before the legislative body of which the

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320 individual is an employee or member with the design, intent,
321 purpose, or objective of promoting or causing any positive,
322 favorable, or negative action or vote by such legislative body,
323 including the passage, amendment, modification, or nonpassage or
324 veto of any proposed law or legislative enactment.

325 5. A public officer in an elective office of any state,
326 county, or municipal legislative, advisory, or regulatory body
327 is prohibited from:

328 a. Lobbying any other state, county, or municipal
329 legislative, advisory, or regulatory body or agency on behalf or
330 for the benefit of any private individual, entity, or
331 organization; or

332 b. Acting as an adviser, counselor, or consultant to, or an
333 advocate for or on behalf or for the benefit of, any private
334 individual, entity, or organization when the subject, purpose,
335 or object of the engagement, employment, or position is to lobby
336 any other state, county, or municipal legislative advisory or
337 regulatory body or agency on behalf or for the benefit of any
338 private individual, entity, or organization.

339 c. Acting as an adviser, counselor, or consultant to, or an
340 advocate for or on behalf or for the benefit of, any private
341 individual, entity, or organization when the subject, purpose,
342 or object of the engagement, employment, or position is to lobby
343 any state, county, or municipal legislative, advisory, or
344 regulatory body or agency on behalf or for the benefit or any
345 private individual, entity, or organization, including being a
346 partner or associate of, or having or maintaining any
347 professional or business relationship or affiliation with, any
348 individual, professional firm, or entity that engages or

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349 participates in any kind of lobbying activity or that advocates
350 on behalf or for the benefit of any private individual, entity,
351 or organization when the subject, purpose, or object of the
352 engagement, employment, or position is to lobby or advocate
353 before any other state, county, or municipal legislative,
354 advisory, or regulatory body or agency.

355 d. Acting as an adviser, consultant, or counselor to, or an
356 advocate for or on behalf or for the benefit of, any entity of
357 which any relative of the public officer is a shareholder,
358 officer, director, or employee or with which the relative of the
359 public officer is otherwise affiliated or associated in any
360 capacity.

361 ~~6.4.~~ An agency employee, including an agency employee who
362 was employed on July 1, 2001, in a Career Service System
363 position that was transferred to the Selected Exempt Service
364 System under chapter 2001-43, Laws of Florida, may not
365 personally represent another person or entity for compensation
366 before the agency with which he or she was employed for a period
367 of 2 years following vacation of position, unless employed by
368 another agency of state government.

369 ~~7.5.~~ Any person violating this paragraph shall be subject
370 to the penalties provided in s. 112.317 and a civil penalty of
371 an amount equal to the compensation which the person receives
372 for the prohibited conduct.

373 ~~8.6.~~ This paragraph is not applicable to:

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

376 b. A person who was employed by the Legislature or other
377 agency on July 1, 1989, whether or not the person was a defined

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378 employee on July 1, 1989;

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

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

385 e. Any appointed state officer whose term of office began
386 before January 1, 1995, unless reappointed to that office on or
387 after January 1, 1995.

388 (b) In addition to the provisions of this part which are
389 applicable to legislators and legislative employees by virtue of
390 their being public officers or employees, the conduct of members
391 of the Legislature and legislative employees shall be governed
392 by the ethical standards provided in the respective rules of the
393 Senate or House of Representatives which are not in conflict
394 herewith.

395 Section 2. Section 112.316, Florida Statutes, is amended to
396 read:

397 112.316 Construction.—

398 (1) It is not the intent of this part, nor shall it be
399 construed, to prevent any officer or employee of a state agency
400 or county, city, or other political subdivision of the state or
401 any legislator or legislative employee from accepting other
402 employment or following any pursuit which does not:

403 (a) Involve lobbying in any form, including any consulting
404 or advisory role to any individual, entity, or firm involved in
405 lobbying in any form;

406 (b) Interfere, or is not likely to interfere, with the full

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407 and faithful discharge by such officer, employee, legislator, or
408 legislative employee of his or her duties to the state or the
409 county, city, or other political subdivision of the state
410 involved; or

411 (c) Create an appearance of impropriety.

412 (2) It is the intent of this part to strictly prohibit any
413 public officer or employee of any state, county, or municipal
414 legislative or governing body from acting as an adviser or
415 consultant to, or an advocate for or on behalf of, any private
416 individual, entity, or organization when the subject, purpose,
417 or object of the employment, engagement, or position is to lobby
418 any other state, county, or municipal governing, legislative,
419 advisory, or regulatory body or agency on behalf or for the
420 benefit of any private individual, entity, or organization, or
421 to assist any other individual in doing so.

422 Section 3. Subsection (8) is added to section 112.317,
423 Florida Statutes, to read:

424 112.317 Penalties.—

425 (8) Except for a violation involving the failure to file a
426 disclosure required under this part or for any omission in a
427 disclosure required under this part:

428 (a) Any public officer or employee who violates any
429 provision of this part or who conceals, fails to disclose, or
430 aids the commission or furtherance of any violation of this part
431 or aids in concealing any violation of this part; or

432 (b) Any private individual who participates in, conceals,
433 or aids the commission or furtherance of any violation of this
434 part or aids in concealing any violation of this part,

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436 commits a felony of the third degree, punishable as provided in
437 s. 775.082, s. 775.083, or s. 775.084, in addition to any other
438 civil penalty provided in this part.

439 Section 4. Section 420.5061, Florida Statutes, is amended
440 to read:

441 420.5061 Transfer of agency assets and liabilities.—The
442 corporation is the legal successor in all respects to the
443 agency, is obligated to the same extent as the agency under any
444 agreements existing on December 31, 1997, and is entitled to any
445 rights and remedies previously afforded the agency by law or
446 contract, including specifically the rights of the agency under
447 chapter 201 and part VI of chapter 159. Effective January 1,
448 1998, all references under Florida law to the agency are deemed
449 to mean the corporation. The corporation shall transfer to the
450 General Revenue Fund an amount which otherwise would have been
451 deducted as a service charge pursuant to s. 215.20(1) if the
452 Florida Housing Finance Corporation Fund established by s.
453 420.508(5), the State Apartment Incentive Loan Fund established
454 by s. 420.5087(7), the Florida Homeownership Assistance Fund
455 established by s. 420.5088(4), the HOME Investment Partnership
456 Fund established by s. 420.5089(1), and the Housing
457 Predevelopment Loan Fund established by s. 420.525(1) were each
458 trust funds. For purposes of s. 112.313, the corporation is
459 deemed to be a continuation of the agency, and the provisions
460 thereof are deemed to apply as if the same entity remained in
461 place. Any employees of the agency and agency board members
462 covered by s. 112.313(9)(a)8. ~~s. 112.313(9)(a)6.~~ shall continue
463 to be entitled to the exemption in that subparagraph,
464 notwithstanding being hired by the corporation or appointed as

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465 board members of the corporation.

466 Section 5. This act shall take effect July 1, 2010.