

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

29 | from representing persons or entities before certain
30 | governing or legislative bodies or agencies; prohibiting a
31 | member of the Legislature, an appointed state officer, an
32 | employee of the legislative branch, or a member of any
33 | state regulatory body from appearing, representing, or
34 | advocating on behalf of a person or entity before the body
35 | of which the individual is an officer, employee, or
36 | member, from having any employment, relationship, or
37 | affiliation with any entity that appears before the body
38 | of which the individual is an employee or member or in
39 | which the business or interests of the entity might be
40 | advanced by action of the legislative body of which the
41 | individual is an employee or member, from having any
42 | employment or association with any entity that lobbies or
43 | appears or advocates before the legislative body of which
44 | the person is an employee or member, or from being
45 | employed by or associated with any entity that provides
46 | advisory services before the legislative body of which the
47 | individual is an employee or member; prohibiting elective
48 | public officers of certain entities from lobbying before
49 | other such entities for the benefit of private parties or
50 | from serving as advisers to private parties when the
51 | purpose of the position is to lobby elected members for
52 | the benefit of the private party; amending s. 112.316,
53 | F.S.; revising construction of the code of ethics for
54 | public officers and employees; clarifying intent that
55 | public officers or certain employees may not accept
56 | certain lobbying, consulting, or advisory roles; amending

57 s. 112.317, F.S.; providing criminal penalties for
 58 violations of the code of ethics for public officers and
 59 employees; amending s. 420.5061, F.S.; conforming a cross-
 60 reference; providing an effective date.

61
 62 Be It Enacted by the Legislature of the State of Florida:

63
 64 Section 1. Subsections (1), (3), (4), (7), and (9) of
 65 section 112.313, Florida Statutes, are amended to read:

66 112.313 Standards of conduct for public officers,
 67 employees of agencies, and local government attorneys.--

68 (1) DEFINITION.--As used in this section, unless the
 69 context otherwise requires, the term "public officer" includes:

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

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

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

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

- 109 (a) October 1, 1975.
- 110 (b) Qualification for elective office.
- 111 (c) Appointment to public office.
- 112 (d) Beginning public employment.

113 (4) UNAUTHORIZED COMPENSATION.--No public officer,
 114 employee of an agency, or local government attorney or his or
 115 her spouse or minor child or other relative, including any
 116 person with whom the public officer or employee has or maintains
 117 a cohabitational, intimate, or financially dependent
 118 relationship, shall, at any time, accept any compensation,
 119 payment, or thing of value when such public officer, employee,
 120 or local government attorney or other person knows, or, with the
 121 exercise of reasonable care, should know, that it was given to
 122 influence a vote or other action in which the officer, employee,
 123 or local government attorney was expected to participate in his
 124 or her official capacity.

125 (7) CONFLICTING EMPLOYMENT, ASSOCIATION, AFFILIATION, OR
 126 CONTRACTUAL RELATIONSHIP.--

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

141 performance of his or her public duties or that would impede the
142 full and faithful discharge of his or her public duties or
143 create the appearance of a conflict or impropriety.

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

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

165 (b) This subsection shall not prohibit a public officer or
166 employee from practicing in a particular profession or
167 occupation when such practice by persons holding such public
168 office or employment is required or permitted by law or

169 ordinance, provided that the public officer or employee does not
 170 have or maintain any kind of employment, association, or
 171 affiliation with any professional or business firm, entity,
 172 association, or organization that engages in, provides, or
 173 renders any services which may encompass any kind of
 174 representation or advocacy before the legislative or regulatory
 175 body of which the public officer or employee is a member.

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

197 association with any professional, trade, religious, or
 198 fraternal association which is not operated for profit, is not a
 199 political action committee, and does not provide any financial
 200 compensation or benefits to its members.

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

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

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

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

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

223 2. As used in this paragraph:

224 a. "Employee" means:

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

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

235 (III) The executive director of the Legislative Committee
 236 on Intergovernmental Relations and the executive director and
 237 deputy executive director of the Commission on Ethics.

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

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

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

255 b. "Appointed state officer" means any member of an
 256 appointive board, commission, committee, council, or authority
 257 of the executive or legislative branch of state government whose
 258 powers, jurisdiction, and authority are not solely advisory and
 259 include the final determination or adjudication of any personal
 260 or property rights, duties, or obligations, other than those
 261 relative to its internal operations.

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

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

277 4. No member of the Legislature, appointed state officer,
 278 employee of the legislative branch, or member of any state
 279 regulatory body shall:

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

284 b. Have, maintain, or hold any employment, position, or
285 professional or business relationship, association, or
286 affiliation of any kind or any contractual relationship with any
287 business or professional entity, firm, association, or
288 organization that appears before the body of which the
289 individual is an employee or member or the business or
290 professional operations, affairs, interests, undertakings,
291 services, or endeavors of which are advanced, or may be
292 benefited, in any degree, by any act of the legislative body of
293 which the individual is an employee or member;

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

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307 d. Have, maintain, or hold any employment or position as a
308 consultant, counselor, attorney, or adviser to any individual,
309 entity, firm, association, or organization that provides or
310 renders services representing or advocating on behalf or for the
311 benefit of any individual, organization, or entity before the
312 legislative body of which such individual is an employee or
313 member, or which represents, lobbies, or appears or advocates
314 before the legislative body of which such individual is an
315 employee or member or which otherwise represents individuals or
316 business entities before the legislative body of which the
317 individual is an employee or member with the design, intent,
318 purpose, or objective of promoting or causing any positive,
319 favorable, or negative action or vote by such legislative body,
320 including the passage, amendment, modification, or nonpassage or
321 veto of any proposed law or legislative enactment.

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

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

329 b. Acting as an adviser, counselor, or consultant to, or
330 an advocate for or on behalf or for the benefit of, any private
331 individual, entity, or organization when the subject, purpose,
332 or object of the engagement, employment, or position is to lobby
333 any other state, county, or municipal legislative advisory or

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334 regulatory body or agency on behalf or for the benefit of any
335 private individual, entity, or organization.

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

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

358 ~~6.4.~~ An agency employee, including an agency employee who
359 was employed on July 1, 2001, in a Career Service System
360 position that was transferred to the Selected Exempt Service
361 System under chapter 2001-43, Laws of Florida, may not

362 personally represent another person or entity for compensation
 363 before the agency with which he or she was employed for a period
 364 of 2 years following vacation of position, unless employed by
 365 another agency of state government.

366 ~~7.5.~~ Any person violating this paragraph shall be subject
 367 to the penalties provided in s. 112.317 and a civil penalty of
 368 an amount equal to the compensation which the person receives
 369 for the prohibited conduct.

370 ~~8.6.~~ This paragraph is not applicable to:

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

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

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

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

382 e. Any appointed state officer whose term of office began
 383 before January 1, 1995, unless reappointed to that office on or
 384 after January 1, 1995.

385 (b) In addition to the provisions of this part which are
 386 applicable to legislators and legislative employees by virtue of
 387 their being public officers or employees, the conduct of members
 388 of the Legislature and legislative employees shall be governed
 389 by the ethical standards provided in the respective rules of the

390 Senate or House of Representatives which are not in conflict
 391 herewith.

392 Section 2. Section 112.316, Florida Statutes, is amended
 393 to read:

394 112.316 Construction.--

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

400 (a) Involve lobbying in any form, including any consulting
 401 or advisory role to any individual, entity, or firm involved in
 402 lobbying in any form;

403 (b) Interfere, or is not likely to interfere, with the
 404 full and faithful discharge by such officer, employee,
 405 legislator, or legislative employee of his or her duties to the
 406 state or the county, city, or other political subdivision of the
 407 state involved; or

408 (c) Create an appearance of impropriety.

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

417 benefit of any private individual, entity, or organization, or
 418 to assist any other individual in doing so.

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

421 112.317 Penalties.--

422 (8) Except for a violation involving the failure to file a
 423 disclosure required under this part or for any omission in a
 424 disclosure required under this part:

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

429 (b) Any private individual who participates in, conceals,
 430 or aids the commission or furtherance of any violation of this
 431 part or aids in concealing any violation of this part,

432
 433 commits a felony of the third degree, punishable as provided in
 434 s. 775.082, s. 775.083, or s. 775.084, in addition to any other
 435 civil penalty provided in this part.

436 Section 4. Section 420.5061, Florida Statutes, is amended
 437 to read:

438 420.5061 Transfer of agency assets and liabilities.--The
 439 corporation is the legal successor in all respects to the
 440 agency, is obligated to the same extent as the agency under any
 441 agreements existing on December 31, 1997, and is entitled to any
 442 rights and remedies previously afforded the agency by law or
 443 contract, including specifically the rights of the agency under
 444 chapter 201 and part VI of chapter 159. Effective January 1,

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445 1998, all references under Florida law to the agency are deemed
446 to mean the corporation. The corporation shall transfer to the
447 General Revenue Fund an amount which otherwise would have been
448 deducted as a service charge pursuant to s. 215.20(1) if the
449 Florida Housing Finance Corporation Fund established by s.
450 420.508(5), the State Apartment Incentive Loan Fund established
451 by s. 420.5087(7), the Florida Homeownership Assistance Fund
452 established by s. 420.5088(4), the HOME Investment Partnership
453 Fund established by s. 420.5089(1), and the Housing
454 Predevelopment Loan Fund established by s. 420.525(1) were each
455 trust funds. For purposes of s. 112.313, the corporation is
456 deemed to be a continuation of the agency, and the provisions
457 thereof are deemed to apply as if the same entity remained in
458 place. Any employees of the agency and agency board members
459 covered by s. 112.313(9)(a)8. ~~s. 112.313(9)(a)6.~~ shall continue
460 to be entitled to the exemption in that subparagraph,
461 notwithstanding being hired by the corporation or appointed as
462 board members of the corporation.

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