

By Senator Aronberg

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1 A bill to be entitled
2 An act relating to the Florida Commission on Ethics;
3 amending s. 112.322, F.S.; authorizing the Commission
4 on Ethics to initiate on its own volition an
5 investigation of an alleged violation of the code of
6 ethics and of any other breach of the public trust;
7 amending s. 112.324, F.S.; providing that upon a
8 written complaint executed under oath or affirmation
9 by the executive director of the commission, the
10 commission shall meet to determine if the commission
11 should initiate a preliminary investigation of an
12 alleged violation of the code of ethics or of any
13 other alleged breach of the public trust; requiring
14 the commission to vote by a specified majority to
15 approve the preliminary investigation; requiring the
16 commission to forward a copy of the commission's order
17 for a preliminary investigation to the alleged
18 violation; amending s. 112.317, F.S.; increasing the
19 civil penalty that may be imposed on public officers,
20 employees, and others for violating the code of ethics
21 and for any other breach of the public trust;
22 providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

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26 Section 1. Subsection (1) of section 112.322, Florida
27 Statutes, is amended to read:

28 112.322 Duties and powers of commission.—

29 (1) It is the duty of the Commission on Ethics to:

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30 (a) Receive and investigate sworn complaints of violation
31 of the code of ethics as established in this part and of any
32 other breach of the public trust, as provided in s. 8(f), Art.
33 II of the State Constitution; ~~and~~

34 (b) When appropriate as set forth in this part, initiate on
35 its own volition an investigation of an alleged violation of the
36 code of ethics as established in this part and any other breach
37 of public trust, as provided in s. 8(f), Art. II of the State
38 Constitution,

39
40 including investigating ~~investigation of~~ all facts and parties
41 materially related to the complaint at issue.

42 Section 2. Subsections (1) and (3) of section 112.324,
43 Florida Statutes, are amended to read:

44 112.324 Procedures on complaints of violations; public
45 records and meeting exemptions.—

46 (1) (a) Upon a written complaint executed on a form
47 prescribed by the commission and signed under oath or
48 affirmation by any person, the commission shall investigate any
49 alleged violation of this part or any other alleged breach of
50 the public trust within the jurisdiction of the commission as
51 provided in s. 8(f), Art. II of the State Constitution in
52 accordance with procedures set forth herein. Within 5 days after
53 receipt of a complaint by the commission, a copy of the
54 complaint shall be transmitted to the alleged violator.

55 (b) Upon a written complaint executed under oath or
56 affirmation by the executive director of the commission, the
57 commission shall meet to determine if the commission should
58 initiate an investigation of an alleged violation of this part

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59 or any other alleged breach of the public trust within the
60 jurisdiction of the commission as provided in s. 8(f), Art. II
61 of the State Constitution. In order to begin a preliminary
62 investigation, the commission must vote to approve the
63 investigation by an affirmative vote of six of nine members.
64 Within 5 days after the commission approves the preliminary
65 investigation, a copy of the commission's complaint shall be
66 transmitted to the alleged violator.

67 (3) (a) A preliminary investigation shall be undertaken by
68 the commission of each legally sufficient complaint over which
69 the commission has jurisdiction to determine whether there is
70 probable cause to believe that a violation has occurred. If,
71 upon completion of the preliminary investigation, the commission
72 finds no probable cause to believe that this part has been
73 violated or that any other breach of the public trust has been
74 committed, the commission shall dismiss the complaint with the
75 issuance of a public report to the complainant and the alleged
76 violator, stating with particularity its reasons for dismissal
77 of the complaint. At that time, the complaint and all materials
78 relating to the complaint shall become a matter of public
79 record.

80 (b) If the commission finds from the preliminary
81 investigation probable cause to believe that this part has been
82 violated or that any other breach of the public trust has been
83 committed, it shall so notify the complainant, the executive
84 director of the commission, and the alleged violator in writing.
85 The ~~Such~~ notification and all documents made or received in the
86 disposition of the complaint shall then become public records.
87 Upon request submitted to the commission in writing, any person

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88 who the commission finds probable cause to believe has violated
89 any provision of this part or has committed any other breach of
90 the public trust shall be entitled to a public hearing. ~~The Such~~
91 person is ~~shall be~~ deemed to have waived the right to a public
92 hearing if the request is not received by the commission within
93 14 days after ~~following the mailing of~~ the probable cause
94 notification was mailed to the person ~~required by this~~
95 ~~subsection~~. However, the commission may on its own motion,
96 require a public hearing, may conduct such further investigation
97 as it deems necessary, and may enter into such stipulations and
98 settlements as it finds to be just and in the best interest of
99 the state. The commission is without jurisdiction to, and no
100 respondent may voluntarily or involuntarily, enter into a
101 stipulation or settlement which imposes any penalty, including,
102 but not limited to, a sanction or admonition or any other
103 penalty contained in s. 112.317. Penalties shall be imposed only
104 by the appropriate disciplinary authority as designated in this
105 section.

106 Section 3. Subsection (1) of section 112.317, Florida
107 Statutes, is amended to read:

108 112.317 Penalties.—

109 (1) Violation of any provision of this part, including, but
110 not limited to, any failure to file any disclosures required by
111 this part or violation of any standard of conduct imposed by
112 this part, or violation of any provision of s. 8, Art. II of the
113 State Constitution, in addition to any criminal penalty or other
114 civil penalty involved, shall, under applicable constitutional
115 and statutory procedures, constitute grounds for, and may be
116 punished by, one or more of the following:

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- 117 (a) In the case of a public officer:
118 1. Impeachment.
119 2. Removal from office.
120 3. Suspension from office.
121 4. Public censure and reprimand.
122 5. Forfeiture of no more than one-third salary per month
123 for no more than 12 months.
124 6. A civil penalty not to exceed \$50,000 ~~\$10,000~~.
125 7. Restitution of any pecuniary benefits received because
126 of the violation committed. The commission may recommend that
127 the restitution penalty be paid to the agency of which the
128 public officer was a member or to the General Revenue Fund.
- 129 (b) In the case of an employee or a person designated as a
130 public officer by this part who otherwise would be deemed to be
131 an employee:
132 1. Dismissal from employment.
133 2. Suspension from employment for not more than 90 days
134 without pay.
135 3. Demotion.
136 4. Reduction in salary level.
137 5. Forfeiture of no more than one-third salary per month
138 for no more than 12 months.
139 6. A civil penalty not to exceed \$25,000 ~~\$10,000~~.
140 7. Restitution of any pecuniary benefits received because
141 of the violation committed. The commission may recommend that
142 the restitution penalty be paid to the agency by which the
143 public employee was employed, or of which the officer was deemed
144 to be an employee, or to the General Revenue Fund.
145 8. Public censure and reprimand.

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

- 149 1. Disqualification from being on the ballot.
- 150 2. Public censure.
- 151 3. Reprimand.
- 152 4. A civil penalty not to exceed \$10,000.

153 (d) In the case of a former public officer or employee who
154 has violated a provision applicable to former officers or
155 employees or whose violation occurred before the officer's or
156 employee's leaving public office or employment:

- 157 1. Public censure and reprimand.
- 158 2. A civil penalty not to exceed \$15,000 ~~\$10,000~~.
- 159 3. Restitution of any pecuniary benefits received because
160 of the violation committed. The commission may recommend that
161 the restitution penalty be paid to the agency of the public
162 officer or employee or to the General Revenue Fund.

163 (e) In the case of a person who is subject to the standards
164 of this part, other than a lobbyist or lobbying firm under s.
165 112.3215 for a violation of s. 112.3215, but who is not a public
166 officer or employee:

- 167 1. Public censure and reprimand.
- 168 2. A civil penalty not to exceed \$25,000 ~~\$10,000~~.
- 169 3. Restitution of any pecuniary benefits received because
170 of the violation committed. The commission may recommend that
171 the restitution penalty be paid to the agency of the person or
172 to the General Revenue Fund.

173 Section 4. This act shall take effect July 1, 2010.