

By the Committee on Rules

595-03347-11

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1 A bill to be entitled
2 An act relating to ethics; amending s. 112.312, F.S.;
3 redefining the term "gift" to exclude contributions or
4 expenditures reported under federal election law;
5 amending s. 112.3143, F.S.; providing for an exception
6 to a provision authorizing a state public officer to
7 vote in an official capacity on any matter, to conform
8 to changes made by the act; creating s. 112.31435,
9 F.S.; defining the term "relative"; prohibiting a
10 member of the Legislature from voting upon any
11 legislation inuring to his or her special private gain
12 or loss; prohibiting a member of the Legislature from
13 voting upon any legislation that the member knows
14 would inure to the special private gain or loss of a
15 principal by whom the member is retained or the
16 corporate parent or subsidiary of a corporate
17 principal by which the member is retained; prohibiting
18 a member of the Legislature from voting on legislation
19 that the member knows would inure to the special
20 private gain or loss of a relative, a business
21 associate, an employer, or a board upon which the
22 member sits; requiring that a member disclose all such
23 interests to the applicable legislative body or
24 committee before the legislation is considered;
25 requiring that the member disclose the specific nature
26 of any such interests within a specified period after
27 the date on which a vote on the legislation occurs;
28 requiring that such disclosure be made by written
29 memorandum and filed with the Secretary of the Senate

595-03347-11

20112088__

30 or the Clerk of the House of Representatives;
31 requiring that the memorandum be recorded in the
32 journal of the house of which the legislator is a
33 member; providing that the act does not prevent the
34 member from voting on a General Appropriations Act or
35 implementing legislation; amending s. 112.3144, F.S.;
36 requiring the Commission on Ethics to review certain
37 filings of full and public disclosure of financial
38 interests made by certain public officers, including
39 supporting documentation; requiring the commission to
40 provide notice of the sufficiency of the financial
41 disclosure; requiring that an amended or corrected
42 disclosure be filed if the filing is insufficient;
43 providing that the amended or corrected disclosure is
44 not subject to sufficiency review; providing for a
45 fine if the amended or corrected disclosure is not
46 filed by a certain date; relieving an officer of
47 liability for fines and penalties if a complete and
48 sufficient full and public disclosure of financial
49 interests is filed by September 1; specifying that any
50 full and public financial disclosure that is not
51 timely received is not entitled to review; permitting
52 the commission to delegate to the commission's staff
53 the responsibilities to review and provide notices
54 relating to the disclosure filings; amending s.
55 112.3145, F.S.; redefining the term "local officer"
56 for the purposes of disclosing financial interests to
57 include members of a community redevelopment agency
58 board and any finance director of a county,

595-03347-11

20112088__

59 municipality, or other political subdivision; amending
60 s. 838.014, F.S.; deleting the definition of the term
61 "corruptly" or "with corrupt intent" to conform
62 provisions to changes made by the act; amending s.
63 838.015, F.S.; redefining the term "bribery" as it
64 relates to the requisite mental state for the offense
65 of bribery; amending ss. 838.016 and 838.022, F.S.;
66 revising provisions relating to the requisite mental
67 state for the offenses of unlawful compensation and
68 reward for official behavior and official misconduct,
69 to conform to changes made by the act; providing an
70 effective date.

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72 Be It Enacted by the Legislature of the State of Florida:

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74 Section 1. Paragraph (b) of subsection (12) of section
75 112.312, Florida Statutes, is amended to read:

76 112.312 Definitions.—As used in this part and for purposes
77 of the provisions of s. 8, Art. II of the State Constitution,
78 unless the context otherwise requires:

79 (12)

80 (b) "Gift" does not include:

81 1. Salary, benefits, services, fees, commissions, gifts, or
82 expenses associated primarily with the donee's employment,
83 business, or service as an officer or director of a corporation
84 or organization.

85 2. Contributions or expenditures reported pursuant to
86 chapter 106 or federal election law, campaign-related personal
87 services provided without compensation by individuals

595-03347-11

20112088__

88 volunteering their time, or any other contribution or
89 expenditure by a political party.

90 3. An honorarium or an expense related to an honorarium
91 event paid to a person or the person's spouse.

92 4. An award, plaque, certificate, or similar personalized
93 item given in recognition of the donee's public, civic,
94 charitable, or professional service.

95 5. An honorary membership in a service or fraternal
96 organization presented merely as a courtesy by such
97 organization.

98 6. The use of a public facility or public property, made
99 available by a governmental agency, for a public purpose.

100 7. Transportation provided to a public officer or employee
101 by an agency in relation to officially approved governmental
102 business.

103 8. Gifts provided directly or indirectly by a state,
104 regional, or national organization which promotes the exchange
105 of ideas between, or the professional development of,
106 governmental officials or employees, and whose membership is
107 primarily composed of elected or appointed public officials or
108 staff, to members of that organization or officials or staff of
109 a governmental agency that is a member of that organization.

110 Section 2. Subsection (2) of section 112.3143, Florida
111 Statutes, is amended to read:

112 112.3143 Voting conflicts.—

113 (2) Except as provided in s. 112.31435, no state public
114 officer is prohibited from voting in an official capacity on any
115 matter. However, any state public officer voting in an official
116 capacity upon any measure that ~~which~~ would inure to the

595-03347-11

20112088__

117 officer's special private gain or loss; that ~~which~~ he or she
118 knows would inure to the special private gain or loss of any
119 principal by whom the officer is retained or to the parent
120 organization or subsidiary of a corporate principal by which the
121 officer is retained; or that ~~which~~ the officer knows would inure
122 to the special private gain or loss of a relative or business
123 associate of the public officer shall, within 15 days after the
124 vote occurs, disclose the nature of his or her interest as a
125 public record in a memorandum filed with the person responsible
126 for recording the minutes of the meeting, who shall incorporate
127 the memorandum in the minutes.

128 Section 3. Section 112.31435, Florida Statutes, is created
129 to read:

130 112.31435 Voting conflicts; state legislators.-

131 (1) As used in this section, the term "relative" means any
132 father, mother, son, daughter, husband, wife, brother, sister,
133 father-in-law, mother-in-law, son-in-law, or daughter-in-law.

134 (2) A member of the Legislature may not vote upon any
135 legislation that would inure to his or her special private gain
136 or loss; that he or she knows would inure to the special private
137 gain or loss of any principal by whom the member is retained or
138 to the parent organization or subsidiary of a corporate
139 principal by which the member is retained; or that the member
140 knows would inure to the special private gain or loss of a
141 relative, a business associate, an employer, or a board upon
142 which the member sits. The member must, before a vote is taken
143 on the legislation by the legislative body of which he or she is
144 a member or any committee on which the member sits, publicly
145 state to the body or committee all of his or her interests in

595-03347-11

20112088

146 the legislation or all of the relative's interests in the
147 legislation which are known to the member. Within 15 days after
148 the date on which the vote on the legislation occurred, the
149 member must disclose the specific nature of those interests as a
150 public record in a memorandum filed with the Secretary of the
151 Senate, if the member is a Senator, or filed with the Clerk of
152 the House of Representatives, if the member is a Representative.
153 The memorandum shall be spread upon the pages of the journal of
154 the house of which the legislator is a member.

155 (3) This section does not prevent a member of the
156 Legislature from voting on a General Appropriations Act or
157 implementing legislation on the floor of the Senate or House of
158 Representatives.

159 Section 4. Subsection (1) of section 112.3144, Florida
160 Statutes, is amended to read:

161 112.3144 Full and public disclosure of financial
162 interests.-

163 (1)(a) An officer who is required by s. 8, Art. II of the
164 State Constitution to file a full and public disclosure of his
165 or her financial interests for any calendar or fiscal year shall
166 file that disclosure with the Florida Commission on Ethics.

167 (b) The commission shall review the information contained
168 in each full and public disclosure of financial interests of,
169 and any supporting or supplemental documentation filed
170 concurrently by, an elected constitutional officer to determine
171 whether the officer's disclosure is sufficient; provided that
172 the commission receives the filing by July 1.

173 (c)1. If the commission determines that the officer's
174 disclosure is insufficient, the commission must send a notice by

595-03347-11

20112088

175 certified mail to the officer no later than 30 days after July
176 1. The notice must identify the specific insufficiency and state
177 with particularity the basis for the determination.

178 2. Upon receipt of the notice of insufficiency, the officer
179 must file an amended or corrected disclosure no later than
180 September 1 of that year, which is not subject to sufficiency
181 review. If the officer fails to file the amended or corrected
182 disclosure by September 1, the automatic fine provided for in
183 this section will begin to accrue. Any such officer accruing an
184 automatic fine may appeal it as provided in subsection (5).

185 3. A complaint may not be filed alleging a violation of
186 this section for any insufficiency identified pursuant to
187 subparagraph 1. unless such insufficiency remains uncorrected
188 after September 1.

189 (d) If the commission finds the disclosure legally
190 sufficient, the commission must send a notice of sufficiency by
191 certified mail to the officer no later than 30 days after July
192 1. To the extent that the disclosure of financial interests and
193 the accompanying documentation filed with the commission fully
194 identify all information that is required to be disclosed, an
195 officer whose disclosure is sufficient is not liable for any
196 finances or penalties for a violation of this section.

197 (e) If an officer's full and public disclosure of financial
198 interests is not received by 5 p.m. on July 1, the officer is
199 not entitled to a sufficiency review.

200 (f) The commission may delegate to its staff the authority
201 to conduct the review required in this subsection.

202 Section 5. Paragraph (a) of subsection (1) of section
203 112.3145, Florida Statutes, is amended to read:

595-03347-11

20112088__

204 112.3145 Disclosure of financial interests and clients
205 represented before agencies.—

206 (1) For purposes of this section, unless the context
207 otherwise requires, the term:

208 (a) "Local officer" means:

209 1. Every person who is elected to office in any political
210 subdivision of the state, and every person who is appointed to
211 fill a vacancy for an unexpired term in such an elective office.

212 2. Any appointed member of any of the following boards,
213 councils, commissions, authorities, or other bodies of any
214 county, municipality, school district, independent special
215 district, or other political subdivision of the state:

216 a. The governing body of the political subdivision, if
217 appointed;

218 b. An expressway authority or transportation authority
219 established by general law;

220 c. A community college or junior college district board of
221 trustees;

222 d. A board having the power to enforce local code
223 provisions;

224 e. A planning or zoning board, board of adjustment, board
225 of appeals, community redevelopment agency board, or other board
226 having the power to recommend, create, or modify land planning
227 or zoning within the political subdivision, except for citizen
228 advisory committees, technical coordinating committees, and such
229 other groups who only have the power to make recommendations to
230 planning or zoning boards;

231 f. A pension board or retirement board having the power to
232 invest pension or retirement funds or the power to make a

595-03347-11

20112088__

233 binding determination of one's entitlement to or amount of a
234 pension or other retirement benefit; or

235 g. Any other appointed member of a local government board
236 who is required to file a statement of financial interests by
237 the appointing authority or the enabling legislation, ordinance,
238 or resolution creating the board.

239 3. Any person holding one or more of the following
240 positions: mayor; county or city manager; chief administrative
241 employee of a county, municipality, or other political
242 subdivision; county or municipal attorney; finance director of a
243 county, municipality, or other political subdivision; chief
244 county or municipal building code inspector; county or municipal
245 water resources coordinator; county or municipal pollution
246 control director; county or municipal environmental control
247 director; county or municipal administrator, with power to grant
248 or deny a land development permit; chief of police; fire chief;
249 municipal clerk; district school superintendent; community
250 college president; district medical examiner; or purchasing
251 agent having the authority to make any purchase exceeding the
252 threshold amount provided for in s. 287.017 for CATEGORY ONE, on
253 behalf of any political subdivision of the state or any entity
254 thereof.

255 Section 6. Subsection (4) of section 838.014, Florida
256 Statutes, is amended, and present subsections (5) through (7) of
257 that section are renumbered as subsections (4) through (6),
258 respectively, to read:

259 838.014 Definitions.—As used in this chapter, the term:

260 ~~(4) "Corruptly" or "with corrupt intent" means acting~~
261 ~~knowingly and dishonestly for a wrongful purpose.~~

595-03347-11

20112088__

262 Section 7. Subsection (1) of section 838.015, Florida
263 Statutes, is amended to read:

264 838.015 Bribery.—

265 (1) "Bribery" means knowingly ~~corruptly~~ to give, offer, or
266 promise to any public servant, or, if a public servant,
267 knowingly ~~corruptly~~ to request, solicit, accept, or agree to
268 accept for himself or herself or another, any pecuniary or other
269 benefit not authorized by law with an intent or purpose to
270 influence the performance of any act or omission which the
271 person believes to be, or the public servant represents as
272 being, within the official discretion of a public servant, in
273 violation of a public duty, or in performance of a public duty.

274 Section 8. Subsections (1) and (2) of section 838.016,
275 Florida Statutes, are amended to read:

276 838.016 Unlawful compensation or reward for official
277 behavior.—

278 (1) It is unlawful for any person knowingly ~~corruptly~~ to
279 give, offer, or promise to any public servant, or, if a public
280 servant, knowingly ~~corruptly~~ to request, solicit, accept, or
281 agree to accept, any pecuniary or other benefit not authorized
282 by law, for the past, present, or future performance,
283 nonperformance, or violation of any act or omission which the
284 person believes to have been, or the public servant represents
285 as having been, either within the official discretion of the
286 public servant, in violation of a public duty, or in performance
287 of a public duty. Nothing herein shall be construed to preclude
288 a public servant from accepting rewards for services performed
289 in apprehending any criminal.

290 (2) It is unlawful for any person knowingly ~~corruptly~~ to

595-03347-11

20112088__

291 give, offer, or promise to any public servant, or, if a public
292 servant, knowingly ~~corruptly~~ to request, solicit, accept, or
293 agree to accept, any pecuniary or other benefit not authorized
294 by law for the past, present, or future exertion of any
295 influence upon or with any other public servant regarding any
296 act or omission which the person believes to have been, or which
297 is represented to him or her as having been, either within the
298 official discretion of the other public servant, in violation of
299 a public duty, or in performance of a public duty.

300 Section 9. Subsection (1) of section 838.022, Florida
301 Statutes, is amended to read:

302 838.022 Official misconduct.-

303 (1) It is unlawful for a public servant, to knowingly ~~with~~
304 ~~corrupt intent~~ to obtain a benefit for any person or to cause
305 harm to another, to:

306 (a) Falsify, or cause another person to falsify, any
307 official record or official document;

308 (b) Conceal, cover up, destroy, mutilate, or alter any
309 official record or official document or cause another person to
310 perform such an act; or

311 (c) Obstruct, delay, or prevent the communication of
312 information relating to the commission of a felony that directly
313 involves or affects the public agency or public entity served by
314 the public servant.

315 Section 10. This act shall take effect July 1, 2011.