

By the Committees on Rules Subcommittee on Ethics and Elections;  
and Rules; and Senator Gaetz

582-03737-11

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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

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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 a  
34 member from voting on legislation that inures to the  
35 special private gain or loss of the member's employer,  
36 principal, or board upon which the member sits, if  
37 such entity is an agency; providing that the act does  
38 not require disclosure if a member's vote will inure  
39 to the special private gain or loss of a member's  
40 employer, principal, or board upon which the member  
41 sits, if such entity is an agency; providing that the  
42 act does not prevent the member from voting on a  
43 General Appropriations Act or implementing  
44 legislation; amending s. 112.3144, F.S.; requiring the  
45 Commission on Ethics to review certain filings of full  
46 and public disclosure of financial interests made by  
47 certain public officers, including supporting  
48 documentation; requiring the commission to provide  
49 notice of the sufficiency of the financial disclosure;  
50 requiring that an amended or corrected disclosure be  
51 filed if the filing is insufficient; providing that  
52 the amended or corrected disclosure is not subject to  
53 sufficiency review; providing for a fine if the  
54 amended or corrected disclosure is not filed by a  
55 certain date; relieving an officer of liability for  
56 fines and penalties if a complete and sufficient full  
57 and public disclosure of financial interests is filed  
58 by September 1; specifying that any full and public

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59 financial disclosure that is not timely received is  
60 not entitled to review; permitting the commission to  
61 delegate to the commission's staff the  
62 responsibilities to review and provide notices  
63 relating to the disclosure filings; amending s.  
64 112.3145, F.S.; redefining the term "local officer"  
65 for the purposes of disclosing financial interests to  
66 include members of a community redevelopment agency  
67 board and any finance director of a county,  
68 municipality, or other political subdivision; amending  
69 s. 838.014, F.S.; deleting the definition of the term  
70 "corruptly" or "with corrupt intent" to conform  
71 provisions to changes made by the act; amending s.  
72 838.015, F.S.; redefining the term "bribery" as it  
73 relates to the requisite mental state for the offense  
74 of bribery; amending ss. 838.016 and 838.022, F.S.;  
75 revising provisions relating to the requisite mental  
76 state for the offenses of unlawful compensation and  
77 reward for official behavior and official misconduct,  
78 to conform to changes made by the act; providing an  
79 effective date.

80  
81 Be It Enacted by the Legislature of the State of Florida:

82  
83 Section 1. Paragraph (b) of subsection (12) of section  
84 112.312, Florida Statutes, is amended to read:

85 112.312 Definitions.—As used in this part and for purposes  
86 of the provisions of s. 8, Art. II of the State Constitution,  
87 unless the context otherwise requires:

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88 (12)

89 (b) "Gift" does not include:

90 1. Salary, benefits, services, fees, commissions, gifts, or  
91 expenses associated primarily with the donee's employment,  
92 business, or service as an officer or director of a corporation  
93 or organization.

94 2. Contributions or expenditures reported pursuant to  
95 chapter 106 or federal election law, campaign-related personal  
96 services provided without compensation by individuals  
97 volunteering their time, or any other contribution or  
98 expenditure by a political party.

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

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

104 5. An honorary membership in a service or fraternal  
105 organization presented merely as a courtesy by such  
106 organization.

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

109 7. Transportation provided to a public officer or employee  
110 by an agency in relation to officially approved governmental  
111 business.

112 8. Gifts provided directly or indirectly by a state,  
113 regional, or national organization which promotes the exchange  
114 of ideas between, or the professional development of,  
115 governmental officials or employees, and whose membership is  
116 primarily composed of elected or appointed public officials or

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117 staff, to members of that organization or officials or staff of  
118 a governmental agency that is a member of that organization.

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

121 112.3143 Voting conflicts.—

122 (2) Except as provided in s. 112.31435, no state public  
123 officer is prohibited from voting in an official capacity on any  
124 matter. However, any state public officer voting in an official  
125 capacity upon any measure that ~~which~~ would inure to the  
126 officer's special private gain or loss; that ~~which~~ he or she  
127 knows would inure to the special private gain or loss of any  
128 principal by whom the officer is retained or to the parent  
129 organization or subsidiary of a corporate principal by which the  
130 officer is retained; or that ~~which~~ the officer knows would inure  
131 to the special private gain or loss of a relative or business  
132 associate of the public officer shall, within 15 days after the  
133 vote occurs, disclose the nature of his or her interest as a  
134 public record in a memorandum filed with the person responsible  
135 for recording the minutes of the meeting, who shall incorporate  
136 the memorandum in the minutes.

137 Section 3. Section 112.31435, Florida Statutes, is created  
138 to read:

139 112.31435 Voting conflicts; state legislators.—

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

143 (2) (a) A member of the Legislature may not vote upon any  
144 legislation that would inure to his or her special private gain  
145 or loss; that he or she knows would inure to the special private

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146 gain or loss of any principal by whom the member is retained or  
147 to the parent organization or subsidiary of a corporate  
148 principal by which the member is retained; or that the member  
149 knows would inure to the special private gain or loss of a  
150 relative, a business associate, an employer, or a board upon  
151 which the member sits. The member must, before a vote is taken  
152 on the legislation by the legislative body of which he or she is  
153 a member or any committee on which the member sits, publicly  
154 state to the body or committee all of his or her interests and  
155 all known interests of a relative, business associate, employer,  
156 any principal by whom the member is retained, the parent  
157 organization or subsidiary of a corporate principal by which the  
158 member is retained, or a board upon which the member sits.  
159 Within 15 days after the date on which the vote on the  
160 legislation occurred, the member must disclose the specific  
161 nature of those interests as a public record in a memorandum  
162 filed with the Secretary of the Senate, if the member is a  
163 Senator, or filed with the Clerk of the House of  
164 Representatives, if the member is a Representative. The  
165 memorandum shall be spread upon the pages of the journal of the  
166 house of which the legislator is a member.

167 (b) A member of the Legislature is not prohibited from  
168 voting on, and is not required to make any disclosure  
169 concerning, any legislation that would inure to the special  
170 private gain or loss of the member's employer, principal, or a  
171 board upon which the member sits, if the entity is an agency as  
172 defined in s. 112.312(2).

173 (3) This section does not prevent a member of the  
174 Legislature from voting on a General Appropriations Act or

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175 implementing legislation on the floor of the Senate or House of  
176 Representatives.

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

179 112.3144 Full and public disclosure of financial  
180 interests.—

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

185 (b) The commission shall review the information contained  
186 in each full and public disclosure of financial interests of,  
187 and any supporting or supplemental documentation filed  
188 concurrently by, an elected constitutional officer to determine  
189 whether the officer's disclosure is sufficient; provided that  
190 the commission receives the filing by July 1.

191 (c)1. If the commission determines that the officer's  
192 disclosure is insufficient, the commission must send a notice by  
193 certified mail to the officer no later than 30 days after July  
194 1. The notice must identify the specific insufficiency and state  
195 with particularity the basis for the determination.

196 2. Upon receipt of the notice of insufficiency, the officer  
197 must file an amended or corrected disclosure no later than  
198 September 1 of that year, which is not subject to sufficiency  
199 review. If the officer fails to file the amended or corrected  
200 disclosure by September 1, the automatic fine provided for in  
201 this section will begin to accrue. Any such officer accruing an  
202 automatic fine may appeal it as provided in subsection (5).

203 3. A complaint may not be filed alleging a violation of

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204 this section for any insufficiency identified pursuant to  
205 subparagraph 1. unless such insufficiency remains uncorrected  
206 after September 1.

207 (d) If the commission finds the disclosure legally  
208 sufficient, the commission must send a notice of sufficiency by  
209 certified mail to the officer no later than 30 days after July  
210 1. To the extent that the disclosure of financial interests and  
211 the accompanying documentation filed with the commission fully  
212 identify all information that is required to be disclosed, an  
213 officer whose disclosure is sufficient is not liable for any  
214 finances or penalties for a violation of this section.

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

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

220 Section 5. Paragraph (a) of subsection (1) of section  
221 112.3145, Florida Statutes, is amended to read:

222 112.3145 Disclosure of financial interests and clients  
223 represented before agencies.—

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

226 (a) "Local officer" means:

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

230 2. Any appointed member of any of the following boards,  
231 councils, commissions, authorities, or other bodies of any  
232 county, municipality, school district, independent special



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- 233 district, or other political subdivision of the state:
- 234       a. The governing body of the political subdivision, if  
235 appointed;
- 236       b. An expressway authority or transportation authority  
237 established by general law;
- 238       c. A community college or junior college district board of  
239 trustees;
- 240       d. A board having the power to enforce local code  
241 provisions;
- 242       e. A planning or zoning board, board of adjustment, board  
243 of appeals, community redevelopment agency board, or other board  
244 having the power to recommend, create, or modify land planning  
245 or zoning within the political subdivision, except for citizen  
246 advisory committees, technical coordinating committees, and such  
247 other groups who only have the power to make recommendations to  
248 planning or zoning boards;
- 249       f. A pension board or retirement board having the power to  
250 invest pension or retirement funds or the power to make a  
251 binding determination of one's entitlement to or amount of a  
252 pension or other retirement benefit; or
- 253       g. Any other appointed member of a local government board  
254 who is required to file a statement of financial interests by  
255 the appointing authority or the enabling legislation, ordinance,  
256 or resolution creating the board.
- 257       3. Any person holding one or more of the following  
258 positions: mayor; county or city manager; chief administrative  
259 employee of a county, municipality, or other political  
260 subdivision; county or municipal attorney; finance director of a  
261 county, municipality, or other political subdivision; chief

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262 county or municipal building code inspector; county or municipal  
263 water resources coordinator; county or municipal pollution  
264 control director; county or municipal environmental control  
265 director; county or municipal administrator, with power to grant  
266 or deny a land development permit; chief of police; fire chief;  
267 municipal clerk; district school superintendent; community  
268 college president; district medical examiner; or purchasing  
269 agent having the authority to make any purchase exceeding the  
270 threshold amount provided for in s. 287.017 for CATEGORY ONE, on  
271 behalf of any political subdivision of the state or any entity  
272 thereof.

273 Section 6. Subsection (4) of section 838.014, Florida  
274 Statutes, is amended, and present subsections (5) through (7) of  
275 that section are renumbered as subsections (4) through (6),  
276 respectively, to read:

277 838.014 Definitions.—As used in this chapter, the term:

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

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

282 838.015 Bribery.—

283 (1) "Bribery" means knowingly ~~corruptly~~ to give, offer, or  
284 promise to any public servant, or, if a public servant,  
285 knowingly ~~corruptly~~ to request, solicit, accept, or agree to  
286 accept for himself or herself or another, any pecuniary or other  
287 benefit not authorized by law with an intent or purpose to  
288 influence the performance of any act or omission which the  
289 person believes to be, or the public servant represents as  
290 being, within the official discretion of a public servant, in

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291 violation of a public duty, or in performance of a public duty.

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

294 838.016 Unlawful compensation or reward for official  
295 behavior.—

296 (1) It is unlawful for any person knowingly ~~corruptly~~ to  
297 give, offer, or promise to any public servant, or, if a public  
298 servant, knowingly ~~corruptly~~ to request, solicit, accept, or  
299 agree to accept, any pecuniary or other benefit not authorized  
300 by law, for the past, present, or future performance,  
301 nonperformance, or violation of any act or omission which the  
302 person believes to have been, or the public servant represents  
303 as having been, either within the official discretion of the  
304 public servant, in violation of a public duty, or in performance  
305 of a public duty. Nothing herein shall be construed to preclude  
306 a public servant from accepting rewards for services performed  
307 in apprehending any criminal.

308 (2) It is unlawful for any person knowingly ~~corruptly~~ to  
309 give, offer, or promise to any public servant, or, if a public  
310 servant, knowingly ~~corruptly~~ to request, solicit, accept, or  
311 agree to accept, any pecuniary or other benefit not authorized  
312 by law for the past, present, or future exertion of any  
313 influence upon or with any other public servant regarding any  
314 act or omission which the person believes to have been, or which  
315 is represented to him or her as having been, either within the  
316 official discretion of the other public servant, in violation of  
317 a public duty, or in performance of a public duty.

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

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320 838.022 Official misconduct.—

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

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

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

329 (c) Obstruct, delay, or prevent the communication of  
330 information relating to the commission of a felony that directly  
331 involves or affects the public agency or public entity served by  
332 the public servant.

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