

By Senator Thrasher

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1                                   A bill to be entitled  
2           An act relating to ethical requirements for public  
3           officers; creating s. 112.3131, F.S.; providing a  
4           restriction on employment with state universities or  
5           Florida College System institutions for a member of  
6           the Legislature; providing an exception; requiring  
7           that a member of the Legislature surrender employment  
8           with a state university or a Florida College System  
9           institution before seeking reelection; creating s.  
10          112.3142, F.S.; providing a legislative finding;  
11          providing that a public officer holding an economic  
12          interest in a qualified blind trust does not have a  
13          conflict of interest with matters pertaining to that  
14          economic interest; providing guidelines for  
15          communications and management relating to the  
16          qualified blind trust, to the public officer and  
17          persons having a beneficial interest in the trust, and  
18          to the trustee; requiring that a public officer report  
19          any beneficial interest in a qualified blind trust on  
20          required financial disclosure forms; requiring that a  
21          qualified blind trust meet certain criteria; providing  
22          criteria for the trust agreement; requiring that the  
23          public officer notify the Commission on Ethics of the  
24          trust agreement within a specified time; providing  
25          criteria for the notice; amending s. 112.3144, F.S.;  
26          requiring that the Commission on Ethics review the  
27          information contained in the public disclosure of  
28          financial interests filed by public officers;  
29          requiring that the commission notify the public

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30 officer of specific insufficiencies in the disclosure  
31 under certain circumstances; requiring that, upon  
32 receipt of the notice of insufficiency, the public  
33 officer file an amended or corrected disclosure by a  
34 specified date; providing that the amended or  
35 corrected disclosure is not subject to a sufficiency  
36 review; providing that the officer is subject to an  
37 automatic fine if the amended or corrected disclosure  
38 is not filed by a specified date; providing for appeal  
39 of the fine; providing that a public officer is  
40 entitled to a sufficiency review only if the  
41 disclosure of financial interests is timely filed;  
42 authorizing the commission to delegate sufficiency  
43 review duties to its staff; amending s. 112.3145,  
44 F.S.; adding a community redevelopment agency board  
45 and persons holding the position of finance director  
46 of a county, municipality, or other political  
47 subdivision to the definition of the term "local  
48 officer" for the purpose of disclosing financial  
49 interests and clients represented before an agency;  
50 providing an effective date.

51  
52 Be It Enacted by the Legislature of the State of Florida:

53  
54 Section 1. Section 112.3131, Florida Statutes, is created  
55 to read:

56 112.3131 Restriction on employment with state universities  
57 or Florida College System institutions.-

58 (1) A member of the Legislature may not be employed by, or

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59 have a contractual relationship with, a state university or a  
60 Florida College System institution while serving in the  
61 Legislature. A member of the Legislature may not become employed  
62 by, or have a contractual relationship with, a state university  
63 or a Florida College System institution for a period of 2 years  
64 after leaving service in the Legislature.

65 (2) This section does not apply to any member of the  
66 Legislature employed by a state university or a Florida College  
67 System institution on July 1, 2012. However, the member of the  
68 Legislature shall surrender his or her employment before seeking  
69 reelection.

70 Section 2. Section 112.3142, Florida Statutes, is created  
71 to read:

72 112.3142 Qualified blind trusts.-

73 (1) The Legislature finds that if a public officer creates  
74 a trust and does not control the interests held by the trust,  
75 his or her official actions will not be influenced or appear to  
76 be influenced by private considerations.

77 (2) If a public officer holds an economic interest in a  
78 qualified blind trust as described in this section, he or she  
79 does not have a conflict of interest prohibited under s.  
80 112.313(3) or (7) or a voting conflict of interest under s.  
81 112.3143 with regard to matters pertaining to that economic  
82 interest.

83 (3) The public officer may not attempt to influence or  
84 exercise any control over decisions regarding the management of  
85 assets in a qualified blind trust. The public officer or any  
86 person having a beneficial interest in the qualified blind trust  
87 may not make any effort to obtain information with respect to

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88 the holdings of the trust, including obtaining a copy of any  
89 trust tax return filed or any information relating thereto,  
90 except as otherwise provided in this section.

91 (4) Except for communications that consist solely of  
92 requests for distributions of cash or other unspecified assets  
93 of the trust, there shall be no direct or indirect communication  
94 with respect to the trust between the public officer or any  
95 person having a beneficial interest in the qualified blind trust  
96 and the trustee, unless such communication is in writing and  
97 unless it relates only to:

98 (a) A request for a distribution from the trust which does  
99 not specify whether the distribution is to be made in cash or in  
100 kind;

101 (b) The general financial interests and needs of the public  
102 officer or a person having a beneficial interest, including, but  
103 not limited to, an interest in maximizing income or long-term  
104 capital gain;

105 (c) A notification of the trustee of a law or regulation  
106 subsequently applicable to the public officer which prohibits  
107 the officer from holding an asset and which notification directs  
108 that the asset not be held by the trust; or

109 (d) A direction to the trustee to sell all of an asset  
110 initially placed in the trust by the public officer which, in  
111 the determination of the public officer, creates a conflict of  
112 interest or the appearance thereof due to the subsequent  
113 assumption of duties by the public officer.

114 (5) The public officer shall report as an asset on his or  
115 her financial disclosure forms the beneficial interest in the  
116 qualified blind trust and its value, if the value is required to

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117 be disclosed. The public officer shall report the blind trust as  
118 a primary source of income on his or her financial disclosure  
119 forms and its amount, if the amount of income is required to be  
120 disclosed. The public officer is not required to report as a  
121 secondary source of income any source of income to the blind  
122 trust.

123 (6) In order to constitute a qualified blind trust, the  
124 trust must be established by the public officer and meet the  
125 following requirements:

126 (a) The person appointed as a trustee must not be:

127 1. The public officer's spouse, child, parent, grandparent,  
128 grandchild, brother, sister, parent-in-law, brother-in-law,  
129 sister-in-law, aunt, uncle, or first cousin, or the spouse of  
130 any such person;

131 2. A person who is an elected or appointed public officer  
132 or a public employee; or

133 3. A person who has been appointed to serve in an agency by  
134 the public officer or by a public officer or public employee  
135 supervised by the public officer.

136 (b) The trust agreement that establishes the trust must:

137 1. Contain a statement that its purpose is to remove from  
138 the grantor control and knowledge of investment of trust assets  
139 so that conflicts between the grantor's responsibilities as a  
140 public officer and his or her private interests will be  
141 eliminated.

142 2. Give the trustee complete discretion to manage the  
143 trust, including, but not limited to, the power to dispose of  
144 and acquire trust assets without consulting or notifying the  
145 covered public officer or any person having a beneficial

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146 interest in the trust.

147 3. Prohibit communication between the trustee and the  
148 public officer and any person having a beneficial interest in  
149 the trust concerning the holdings or sources of income of the  
150 trust, except amounts of cash value or net income or loss, if  
151 such report does not identify any asset or holding, except as  
152 provided in this section.

153 4. Provide that the trust tax return is prepared by the  
154 trustee or his or her designee and that any information relating  
155 thereto is not disclosed to the public officer or to any other  
156 beneficiary, except as provided in this section.

157 5. Permit the trustee to notify the public officer of the  
158 date of disposition and value at disposition of any original  
159 investment or interest in real property to the extent required  
160 by federal tax law so that the information can be reported on  
161 the public officer's applicable tax returns.

162 6. Prohibit the trustee from disclosing to the public  
163 officer and any person having a beneficial interest in the trust  
164 any information concerning replacement assets to the trust,  
165 except for the minimum tax information that lists only the  
166 totals of taxable items from the trust and does not describe the  
167 source of individual items of income.

168 (c) Within 5 business days after the agreement is executed,  
169 the public officer shall file a notice with the commission  
170 setting forth:

- 171 1. The date that the agreement was executed;  
172 2. The name and address of the trustee; and  
173 3. The acknowledgement by the trustee that he or she has  
174 agreed to serve as trustee.

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175 Section 3. Subsection (1) of section 112.3144, Florida  
176 Statutes, is amended to read:

177 112.3144 Full and public disclosure of financial  
178 interests.—

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

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

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

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

201 3. A complaint may not be filed alleging a violation of  
202 this section for any insufficiency identified pursuant to  
203 subparagraph 1. unless such insufficiency remains uncorrected

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204 after September 1.

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

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

216 (f) The commission may delegate to its staff the authority  
 217 to conduct the sufficiency reviews required in this subsection.

218 Section 4. Paragraph (a) of subsection (1) of section  
 219 112.3145, Florida Statutes, is amended to read:

220 112.3145 Disclosure of financial interests and clients  
 221 represented before agencies.—

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

224 (a) "Local officer" means:

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

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



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

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

272 Section 5. This act shall take effect July 1, 2012.