

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.