

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: State Affairs Committee  
 2 Representative Fasano offered the following:

**Amendment (with title amendment)**

Remove lines 1262-1498 and insert:

6 Section 16. Section 112.324, Florida Statutes, is amended  
7 to read:

8 112.324 Procedures on complaints of violations; public  
9 records and meeting exemptions.-

10 ~~(1) Upon a written complaint executed on a form prescribed~~  
 11 ~~by the commission and signed under oath or affirmation by any~~  
 12 ~~person,~~ The commission shall investigate any alleged violation  
 13 of this part or any other alleged breach of the public trust  
 14 within the jurisdiction of the commission as provided in s.  
 15 8(f), Art. II of the State Constitution ~~in accordance with~~  
 16 ~~procedures set forth herein.~~

17 (a) Such investigation shall commence upon the receipt of:

18 1. A written complaint executed on a form prescribed by  
 19 the commission and signed under oath or affirmation by the

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20 complainant;

21 2. Reliable and publicly disseminated information that  
22 seven members of the commission deem sufficient to indicate a  
23 breach of the public trust. Commission staff may not undertake a  
24 formal investigation, other than the collection of publicly  
25 disseminated information, before the commission makes a  
26 determination of sufficiency; or

27 3. A written referral of a possible violation of this part  
28 or other possible breach of the public trust from the Governor,  
29 the Chief Financial Officer, a state attorney, the executive  
30 director of the Department of Law Enforcement, or the statewide  
31 prosecutor, which seven members of the commission deem  
32 sufficient to indicate a breach of the public trust.

33 (b) Within 5 days after the commission receives ~~receipt of~~  
34 a complaint, or after the commission determines that there is a  
35 legally sufficient indication of a breach of the public trust  
36 pursuant to publicly disseminated information or a written  
37 referral ~~by the commission~~, a copy of the complaint or  
38 determination of sufficiency shall be transmitted to the alleged  
39 violator.

40 (c) A complaint under this part against a candidate in any  
41 general, special, or primary election may not be filed and any  
42 intention of filing such a complaint may not be disclosed on the  
43 day of such election or within the 5 days immediately preceding  
44 the date of the election.

45 (2) (a) The complaint and records relating to the complaint  
46 or to any preliminary investigation held by the commission or  
47 its agents, by a Commission on Ethics and Public Trust

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48 established by any county defined in s. 125.011(1) or by any  
49 municipality defined in s. 165.031, or by any county or  
50 municipality that has established a local investigatory process  
51 to enforce more stringent standards of conduct and disclosure  
52 requirements as provided in s. 112.326 are confidential and  
53 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
54 of the State Constitution.

55 (b) Any proceeding conducted by the commission, a  
56 Commission on Ethics and Public Trust, or a county or  
57 municipality that has established such local investigatory  
58 process, pursuant to a complaint or preliminary investigation,  
59 is exempt from the provisions of s. 286.011, s. 24(b), Art. I of  
60 the State Constitution, and s. 120.525.

61 (c) The exemptions in paragraphs (a) and (b) apply until  
62 the complaint is dismissed as legally insufficient, until the  
63 alleged violator requests in writing that such records and  
64 proceedings be made public, or until the commission, a  
65 Commission on Ethics and Public Trust, or a county or  
66 municipality that has established such local investigatory  
67 process determines, based on such investigation, whether  
68 probable cause exists to believe that a violation has occurred.  
69 ~~In no event shall a complaint under this part against a~~  
70 ~~candidate in any general, special, or primary election be filed~~  
71 ~~or any intention of filing such a complaint be disclosed on the~~  
72 ~~day of any such election or within the 5 days immediately~~  
73 ~~preceding the date of the election.~~

74 (d) This subsection is subject to the Open Government  
75 Sunset Review Act in accordance with s. 119.15 and shall stand

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76 repealed on October 2, 2015, unless reviewed and saved from  
77 repeal through reenactment by the Legislature.

78 (3) A preliminary investigation shall be undertaken by the  
79 commission of each legally sufficient complaint or other  
80 indication of a breach of the public trust over which the  
81 commission has jurisdiction to determine whether there is  
82 probable cause to believe that a violation has occurred.

83 (a) If, upon completion of the preliminary investigation,  
84 the commission finds no probable cause to believe that this part  
85 has been violated or that any other breach of the public trust  
86 has been committed, the commission shall dismiss the complaint  
87 or other determination with the issuance of a public report to  
88 the complainant or referring official and the alleged violator,  
89 stating with particularity its reasons for dismissal ~~of the~~  
90 ~~complaint~~. At that time, the complaint or other alleged breach  
91 of the public trust, and all related materials ~~relating to the~~  
92 ~~complaint~~ shall become a matter of public record.

93 (b) If the commission finds from the preliminary  
94 investigation probable cause to believe that this part has been  
95 violated or that any other breach of the public trust has been  
96 committed, it shall so notify the complainant or referring  
97 official and the alleged violator in writing. The Such  
98 notification and all documents made or received in the  
99 determination of probable cause ~~disposition of the complaint~~  
100 shall ~~then~~ become public records. Upon request submitted to the  
101 commission in writing, any person who the commission finds  
102 probable cause to believe has violated any provision of this  
103 part or has committed any other breach of the public trust is

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104 ~~shall be~~ entitled to a public hearing. Such person shall be  
105 deemed to have waived the right to a public hearing if the  
106 request is not received within 14 days following the mailing of  
107 the probable cause notification required by this subsection.  
108 However, the commission may on its own motion, require a public  
109 hearing, may conduct such further investigation as it deems  
110 necessary, and may enter into such stipulations and settlements  
111 as it finds to be just and in the best interest of the state.  
112 The commission is without jurisdiction to, and a ~~no~~ respondent  
113 may not voluntarily or involuntarily, enter into a stipulation  
114 or settlement that ~~which~~ imposes any penalty, including, but not  
115 limited to, a sanction or admonition or any other penalty  
116 contained in s. 112.317. Penalties shall be imposed only by the  
117 appropriate disciplinary authority as designated in this  
118 section.

119 (4) If, in cases pertaining to members of the Legislature,  
120 upon completion of a full and final investigation by the  
121 commission, the commission finds that there has been a violation  
122 of this part or of any provision of s. 8, Art. II of the State  
123 Constitution, the commission shall forward a copy of the  
124 complaint or referral and its findings by certified mail to the  
125 President of the Senate or the Speaker of the House of  
126 Representatives, whichever is applicable, who shall refer the  
127 matter ~~complaint~~ to the appropriate committee for investigation  
128 and action, which shall be governed by the rules of its  
129 respective house. ~~It shall be the duty of~~ The committee shall ~~to~~  
130 report its final action upon the matter ~~complaint~~ to the  
131 commission within 90 days after ~~of~~ the date of transmittal to

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132 the respective house. Upon request of the committee, the  
133 commission shall submit a recommendation as to what penalty, if  
134 any, should be imposed. In the case of a member of the  
135 Legislature, the house in which the member serves is empowered  
136 ~~shall have the power~~ to invoke the penalty provisions of this  
137 part.

138 (5) If, in cases ~~pertaining to complaints~~ against  
139 impeachable officers, upon completion of a full and final  
140 investigation by the commission, the commission finds that there  
141 has been a violation of this part or of any provision of s. 8,  
142 Art. II of the State Constitution, and the commission finds that  
143 the violation may constitute grounds for impeachment, the  
144 commission shall forward a copy of the complaint or referral and  
145 its findings by certified mail to the Speaker of the House of  
146 Representatives, who shall refer the matter ~~complaint~~ to the  
147 appropriate committee for investigation and action, which shall  
148 be governed by the rules of the House of Representatives. It is  
149 ~~shall be~~ the duty of the committee to report its final action  
150 upon the matter ~~complaint~~ to the commission within 90 days after  
151 ~~of~~ the date of transmittal.

152 (6) If the commission finds that there has been a  
153 violation of this part or of any provision of s. 8, Art. II of  
154 the State Constitution by an impeachable officer other than the  
155 Governor, and the commission recommends public censure and  
156 reprimand, forfeiture of a portion of the officer's salary, a  
157 civil penalty, or restitution, the commission shall report its  
158 findings and recommendation of disciplinary action to the  
159 Governor, who is empowered ~~shall have the power~~ to invoke the

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160 penalty provisions of this part.

161 (7) If the commission finds that there has been a  
162 violation of this part or of any provision of s. 8, Art. II of  
163 the State Constitution by the Governor, and the commission  
164 recommends public censure and reprimand, forfeiture of a portion  
165 of the Governor's salary, a civil penalty, or restitution, the  
166 commission shall report its findings and recommendation of  
167 disciplinary action to the Attorney General, who is empowered  
168 ~~shall have the power~~ to invoke the penalty provisions of this  
169 part.

170 (8) If, in cases ~~pertaining to complaints~~ other than  
171 ~~complaints~~ against impeachable officers or members of the  
172 Legislature, upon completion of a full and final investigation  
173 by the commission, the commission finds that there has been a  
174 violation of this part or of s. 8, Art. II of the State  
175 Constitution, ~~it shall be the duty of~~ the commission shall ~~to~~  
176 report its findings and recommend appropriate action to the  
177 proper disciplinary official or body as follows, and such  
178 official or body may ~~shall have the power to~~ invoke the penalty  
179 provisions of this part, including the power to order the  
180 appropriate elections official to remove a candidate from the  
181 ballot for a violation of s. 112.3145 or s. 8(a) and (i), Art.  
182 II of the State Constitution:

183 (a) The President of the Senate and the Speaker of the  
184 House of Representatives, jointly, in any case concerning the  
185 Public Counsel, members of the Public Service Commission,  
186 members of the Public Service Commission Nominating Council, the  
187 Auditor General, or the director of the Office of Program Policy

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188 Analysis and Government Accountability.

189 (b) The Supreme Court, in any case concerning an employee  
190 of the judicial branch.

191 (c) The President of the Senate, in any case concerning an  
192 employee of the Senate; the Speaker of the House of  
193 Representatives, in any case concerning an employee of the House  
194 of Representatives; or the President and the Speaker, jointly,  
195 in any case concerning an employee of a committee of the  
196 Legislature whose members are appointed solely by the President  
197 and the Speaker or in any case concerning an employee of the  
198 Public Counsel, Public Service Commission, Auditor General, or  
199 Office of Program Policy Analysis and Government Accountability.

200 (d) Except as otherwise provided by this part, the  
201 Governor, in the case of any other public officer, public  
202 employee, former public officer or public employee, candidate or  
203 former candidate, or person who is not a public officer or  
204 employee, other than lobbyists and lobbying firms under s.  
205 112.3215 for violations of s. 112.3215.

206 (e) The President of the Senate or the Speaker of the  
207 House of Representatives, as ~~whichever is~~ applicable, in any  
208 case concerning a former member of the Legislature who has  
209 violated a provision applicable to former members or whose  
210 violation occurred while a member of the Legislature.

211 (9) In addition to reporting its findings to the proper  
212 disciplinary body or official, the commission shall report these  
213 findings to the state attorney or any other appropriate official  
214 or agency having authority to initiate prosecution if a ~~when~~  
215 violation of criminal law is indicated.



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216 (10) Notwithstanding the foregoing procedures of this  
217 section, a sworn complaint against any member or employee of the  
218 Commission on Ethics for violation of this part or of s. 8, Art.  
219 II of the State Constitution shall be filed with the President  
220 of the Senate and the Speaker of the House of Representatives.  
221 Each presiding officer shall, after determining that there are  
222 sufficient grounds for review, appoint three members of their  
223 respective bodies to a special joint committee to ~~who shall~~  
224 investigate the complaint. The members shall elect a chair from  
225 among their number. If the special joint committee finds  
226 insufficient evidence to establish probable cause to believe a  
227 violation ~~of this part or of s. 8, Art. II of the State~~  
228 ~~Constitution~~ has occurred, it shall dismiss the complaint. If,  
229 upon completion of its preliminary investigation, the committee  
230 finds sufficient evidence to establish probable cause to believe  
231 a violation has occurred, the chair thereof shall transmit such  
232 findings to the Governor who shall convene a meeting of the  
233 Governor, the President of the Senate, the Speaker of the House  
234 of Representatives, and the Chief Justice of the Supreme Court  
235 to take such final action on the complaint as they shall deem  
236 appropriate, consistent with the penalty provisions of this  
237 part. Upon request of a majority of the Governor, the President  
238 of the Senate, the Speaker of the House of Representatives, and  
239 the Chief Justice of the Supreme Court, the special joint  
240 committee shall submit a recommendation as to what penalty, if  
241 any, should be imposed.

242 (11) Notwithstanding ~~the provisions of~~ subsections (1)-  
243 (8), the commission may, ~~at its discretion,~~ dismiss any

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244 complaint or other indication of a breach of the public trust at  
245 any stage of disposition if ~~should~~ it finds ~~determine~~ that the  
246 public interest would not be served by proceeding further, in  
247 which case the commission shall issue a public report stating  
248 with particularity its reasons for the dismissal.

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**T I T L E   A M E N D M E N T**

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Remove lines 180-191 and insert:

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amending s. 112.324, F.S.; providing procedures for

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investigations of complaints filed with the commission;