

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Fasano offered the following:

**Amendment (with title amendment)**

Remove lines 1257-1493 and insert:

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

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

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

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

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

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

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

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

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

44 (2) (a) The complaint and records relating to the complaint

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45 or to any preliminary investigation held by the commission or  
46 its agents, by a Commission on Ethics and Public Trust  
47 established by any county defined in s. 125.011(1) or by any  
48 municipality defined in s. 165.031, or by any county or  
49 municipality that has established a local investigatory process  
50 to enforce more stringent standards of conduct and disclosure  
51 requirements as provided in s. 112.326 are confidential and  
52 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I  
53 of the State Constitution.

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

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

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73 (d) This subsection is subject to the Open Government  
74 Sunset Review Act in accordance with s. 119.15 and shall stand  
75 repealed on October 2, 2015, unless reviewed and saved from  
76 repeal through reenactment by the Legislature.

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

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

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

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

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

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129 report its final action upon the matter ~~complaint~~ to the  
130 commission within 90 days after ~~of~~ the date of transmittal to  
131 the respective house. Upon request of the committee, the  
132 commission shall submit a recommendation as to what penalty, if  
133 any, should be imposed. In the case of a member of the  
134 Legislature, the house in which the member serves is empowered  
135 ~~shall have the power~~ to invoke the penalty provisions of this  
136 part.

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

151 (6) If the commission finds that there has been a  
152 violation of this part or of any provision of s. 8, Art. II of  
153 the State Constitution by an impeachable officer other than the  
154 Governor, and the commission recommends public censure and  
155 reprimand, forfeiture of a portion of the officer's salary, a  
156 civil penalty, or restitution, the commission shall report its

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157 findings and recommendation of disciplinary action to the  
158 Governor, who is empowered ~~shall have the power~~ to invoke the  
159 penalty provisions of this part.

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

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

182 (a) The President of the Senate and the Speaker of the  
183 House of Representatives, jointly, in any case concerning the  
184 Public Counsel, members of the Public Service Commission,

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185 members of the Public Service Commission Nominating Council, the  
186 Auditor General, or the director of the Office of Program Policy  
187 Analysis and Government Accountability.

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

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

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

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

210 (9) In addition to reporting its findings to the proper  
211 disciplinary body or official, the commission shall report these  
212 findings to the state attorney or any other appropriate official

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213 or agency having authority to initiate prosecution if a ~~when~~  
214 violation of criminal law is indicated.

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

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241 (11) Notwithstanding ~~the provisions of~~ subsections (1)-  
242 (8), the commission may, ~~at its discretion,~~ dismiss any  
243 complaint or other indication of a breach of the public trust at  
244 any stage of disposition if should it finds ~~determine~~ that the  
245 public interest would not be served by proceeding further, in  
246 which case the commission shall issue a public report stating  
247 with particularity its reasons for the dismissal.

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250 **T I T L E A M E N D M E N T**

251 Remove lines 172-183 and insert:  
252 amending s. 112.324, F.S.; providing procedures for  
253 investigations of complaints filed with the  
254 commission;