

By Senator Abruzzo

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1 A bill to be entitled
2 An act relating to public officers and employees;
3 amending s. 112.317, F.S.; providing that violations
4 of certain local codes of ethics are subject to
5 specified penalties; amending s. 112.3217, F.S.;
6 revising the term "contingency fee" to include local
7 government action; requiring that certain forfeited
8 benefits be forfeited to the affected local
9 government; amending s. 112.322, F.S.; revising the
10 duties and powers of the Commission on Ethics;
11 requiring the commission to receive and investigate
12 complaints alleging certain violations of a local code
13 of ethics; requiring that all complaints alleging a
14 violation of a local code of ethics be filed with the
15 commission; requiring that the commission be the
16 official custodian of records of such complaints;
17 conforming provisions to changes made by the act;
18 amending s. 112.3231, F.S.; requiring that complaints
19 alleging a violation of a local code of ethics within
20 the commission's jurisdiction be filed within a
21 specified timeframe; amending s. 112.324, F.S.;
22 conforming a provision to changes made by the act;
23 amending s. 112.326, F.S.; requiring a local ethics
24 agency or commission to establish certain procedures;
25 requiring the commission to respond to certain
26 complaints or requests for advisory opinions;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (1) of section 112.317, Florida Statutes, is amended to read:

112.317 Penalties.—

(1) Any violation of this part, including, but not limited to, failure to file disclosures required by this part or violation of any standard of conduct imposed by this part, ~~or~~ any violation of s. 8, Art. II of the State Constitution, or any violation of a local code of ethics which is adopted pursuant to s. 112.326 and which is not in conflict with this part, in addition to any criminal penalty or other civil penalty involved, under applicable constitutional and statutory procedures, constitutes grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
6. A civil penalty not to exceed \$10,000.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

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- 59 1. Dismissal from employment.
- 60 2. Suspension from employment for not more than 90 days
61 without pay.
- 62 3. Demotion.
- 63 4. Reduction in his or her salary level.
- 64 5. Forfeiture of no more than one-third salary per month
65 for no more than 12 months.
- 66 6. A civil penalty not to exceed \$10,000.
- 67 7. Restitution of any pecuniary benefits received because
68 of the violation committed. The commission may recommend that
69 the restitution penalty be paid to the agency by which the
70 public employee was employed, or of which the officer was deemed
71 to be an employee, or to the General Revenue Fund.
- 72 8. Public censure and reprimand.
- 73 (c) In the case of a candidate who violates this part or s.
74 8(a) and (i), Art. II of the State Constitution:
- 75 1. Disqualification from being on the ballot.
- 76 2. Public censure.
- 77 3. Reprimand.
- 78 4. A civil penalty not to exceed \$10,000.
- 79 (d) In the case of a former public officer or employee who
80 has violated a provision applicable to former officers or
81 employees or whose violation occurred before the officer's or
82 employee's leaving public office or employment:
- 83 1. Public censure and reprimand.
- 84 2. A civil penalty not to exceed \$10,000.
- 85 3. Restitution of any pecuniary benefits received because
86 of the violation committed. The commission may recommend that
87 the restitution penalty be paid to the agency of the public

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88 officer or employee or to the General Revenue Fund.

89 (e) In the case of a person who is subject to the standards
90 of this part, other than a lobbyist or lobbying firm under s.
91 112.3215 for a violation of s. 112.3215, but who is not a public
92 officer or employee:

93 1. Public censure and reprimand.

94 2. A civil penalty not to exceed \$10,000.

95 3. Restitution of any pecuniary benefits received because
96 of the violation committed. The commission may recommend that
97 the restitution penalty be paid to the agency of the person or
98 to the General Revenue Fund.

99 Section 2. Subsections (1), (3), and (4) of section
100 112.3217, Florida Statutes, are amended to read:

101 112.3217 Contingency fees; prohibitions; penalties.—

102 (1) "Contingency fee" means a fee, bonus, commission, or
103 nonmonetary benefit as compensation which is dependent or in any
104 way contingent on the enactment, defeat, modification, or other
105 outcome of any specific executive branch or local government
106 action.

107 (3) A ~~Any~~ person who violates this section commits a
108 misdemeanor of the first degree, punishable as provided in s.
109 775.082 or s. 775.083. If such person is a lobbyist, the
110 lobbyist shall forfeit any fee, bonus, commission, or profit
111 received in violation of this section and is subject to the
112 penalties set forth in s. 112.3215. If ~~When~~ the fee, bonus,
113 commission, or profit is nonmonetary, the fair market value of
114 the benefit shall be used in determining the amount to be
115 forfeited. All forfeited benefits shall be deposited into the
116 Executive Branch Lobby Registration Trust Fund. However, any

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117 benefit forfeited as a result of a violation of this section
118 with respect to a local government action shall be forfeited to
119 the affected local government.

120 (4) ~~Nothing in~~ This section may not be construed to
121 prohibit any salesperson engaging in legitimate state or local
122 business on behalf of a company from receiving compensation or
123 commission as part of a bona fide contractual arrangement with
124 that company.

125 Section 3. Subsection (1), paragraph (a) of subsection (2),
126 paragraph (a) of subsection (3), and subsections (5) and (7) of
127 section 112.322, Florida Statutes, are amended to read:

128 112.322 Duties and powers of commission.—

129 (1) (a) It is the duty of the Commission on Ethics to
130 receive and investigate sworn complaints of a violation of the
131 code of ethics as established in this part, of a violation of a
132 standard of conduct in a local code of ethics adopted pursuant
133 to s. 112.326 which is equivalent to a standard of conduct in
134 this part, and of any other breach of the public trust, as
135 provided in s. 8(f), Art. II of the State Constitution,
136 including investigation of all facts and parties materially
137 related to the complaint at issue.

138 (b) All complaints alleging a violation of a local code of
139 ethics adopted pursuant to s. 112.326 shall be filed with the
140 commission. The commission shall be the official custodian of
141 records for complaints, and any documents related to such
142 complaints, alleging a violation of a local code of ethics
143 adopted pursuant to s. 112.326.

144 (2) (a) Any public officer or employee may request a hearing
145 before the Commission on Ethics to present oral or written

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146 testimony in response to allegations that he or she ~~such person~~
147 violated the code of ethics established in this part or a
148 standard of conduct in a local code of ethics adopted pursuant
149 to s. 112.326 which is equivalent to a standard of conduct in
150 this part, or allegations of any other breach of the public
151 trust, as provided in s. 8, Art. II of the State Constitution,
152 if provided a majority of the commission members present and
153 voting consider that the allegations are of such gravity as to
154 affect the general welfare of the state and the ability of the
155 subject public officer or employee to effectively ~~to~~ discharge
156 the duties of the office. If the allegations made against the
157 subject public officer or employee are made under oath, the
158 public officer or employee ~~then he or she~~ shall also be required
159 to testify under oath.

160 (3) (a) Any ~~Every~~ public officer, candidate for public
161 office, or public employee, when in doubt about the
162 applicability and interpretation of this part, a standard of
163 conduct in a local code of ethics adopted pursuant to s. 112.326
164 which is equivalent to a standard of conduct in this part, or s.
165 8, Art. II of the State Constitution to himself or herself in a
166 particular context, may submit in writing the facts of the
167 situation to the Commission on Ethics with a request for an
168 advisory opinion to establish the standard of public duty. Any
169 public officer or employee who has the power to hire or
170 terminate employees may likewise seek an advisory opinion from
171 the commission as to the application of the provisions of this
172 part, a standard of conduct in a local code of ethics adopted
173 pursuant to s. 112.326 which is equivalent to a standard of
174 conduct in this part, or s. 8, Art. II of the State Constitution

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175 to any such employee or applicant for employment. An advisory
176 opinion shall be rendered by the commission, and each such
177 opinion shall be numbered, dated, and published without naming
178 the person making the request, unless such person consents to
179 the use of his or her name.

180 (5) The commission may recommend that the Governor initiate
181 judicial proceedings in the name of the state against any
182 executive or administrative state, county, or municipal officer
183 to enforce compliance with any provision of this part, a local
184 code of ethics, or ~~of~~ s. 8, Art. II of the State Constitution or
185 to restrain violations of this part, a local code of ethics, or
186 ~~of~~ s. 8, Art. II of the State Constitution, pursuant to s. 1(b),
187 Art. IV of the State Constitution; and the Governor may without
188 further action initiate such judicial proceedings.

189 (7) The commission may prepare materials designed to assist
190 persons in complying with the provisions of this part, with a
191 standard of conduct in a local code of ethics adopted pursuant
192 to s. 112.326 which is equivalent to a standard of conduct in
193 this part, and with s. 8, Art. II of the State Constitution.

194 Section 4. Subsection (1) of section 112.3231, Florida
195 Statutes, is amended to read:

196 112.3231 Time limitations.-

197 (1) On or after October 1, 1993, all sworn complaints
198 alleging a violation of this part, a local code of ethics, or of
199 any other breach of the public trust within the jurisdiction of
200 the Commission on Ethics under s. 8, Art. II of the State
201 Constitution, shall be filed with the commission within 5 years
202 of the alleged violation or other breach of the public trust.

203 Section 5. Subsection (1) of section 112.324, Florida

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204 Statutes, is amended to read:

205 112.324 Procedures on complaints of violations and
206 referrals; public records and meeting exemptions.—

207 (1) The commission shall investigate an alleged violation
208 of this part, a standard of conduct in a local code of ethics
209 adopted pursuant to s. 112.326 which is equivalent to a standard
210 of conduct in this part, or other alleged breach of the public
211 trust within the jurisdiction of the commission as provided in
212 s. 8(f), Art. II of the State Constitution:

213 (a) Upon a written complaint executed on a form prescribed
214 by the commission and signed under oath or affirmation by any
215 person; or

216 (b) Upon receipt of a written referral of a possible
217 violation of this part or other possible breach of the public
218 trust from the Governor, the Department of Law Enforcement, a
219 state attorney, or a United States Attorney which at least six
220 members of the commission determine is sufficient to indicate a
221 violation of this part or any other breach of the public trust.

222
223 Within 5 days after receipt of a complaint by the commission or
224 a determination by at least six members of the commission that
225 the referral received is deemed sufficient, a copy shall be
226 transmitted to the alleged violator.

227 Section 6. Section 112.326, Florida Statutes, is amended to
228 read:

229 112.326 Additional requirements by political subdivisions
230 and agencies not prohibited. ~~Nothing in~~ This part does not
231 prohibit the electors or act shall prohibit the governing body
232 of a ~~any~~ political subdivision, by ordinance, or agency, by

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233 rule, from imposing upon its own officers and employees
234 additional or more stringent standards of conduct and disclosure
235 requirements than those specified in this part, ~~if provided that~~
236 those standards of conduct and disclosure requirements do not
237 otherwise conflict with ~~the provisions of~~ this part. Procedures
238 of a local ethics agency or commission governing complaints and
239 investigations shall conform with procedures established under
240 s. 112.324. If a political subdivision or agency has imposed a
241 standard of conduct equivalent to a standard contained in this
242 part or s. 8, Art. II of the State Constitution, a complaint
243 regarding allegations of a breach of such standard, or a request
244 for an advisory opinion with respect to such standard, must be
245 made to the commission, which shall respond to the complaint or
246 the request for an advisory opinion in the same manner as
247 provided in ss. 112.317, 112.322, and 112.324.

248 Section 7. This act shall take effect July 1, 2014.