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LEGISLATIVE ACTION

Senate

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House

The Committee on Ethics and Elections (Clemens) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 112.3142, Florida Statutes, is amended
to read:

112.3142 Ethics training for specified constitutional
officers and elected municipal officers.—

(1) As used in this section, the term "constitutional
officers" includes the Governor, the Lieutenant Governor, the



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11 Attorney General, the Chief Financial Officer, the Commissioner
12 of Agriculture, state attorneys, public defenders, sheriffs, tax
13 collectors, property appraisers, supervisors of elections,
14 clerks of the circuit court, county commissioners, district
15 school board members, and superintendents of schools.

16 (2) (a) All constitutional officers must complete 4 hours of
17 ethics training each calendar year which annually that
18 addresses, at a minimum, s. 8, Art. II of the State
19 Constitution, the Code of Ethics for Public Officers and
20 Employees, and the public records and public meetings laws of
21 this state. This requirement may be satisfied by completion of a
22 continuing legal education class or other continuing
23 professional education class, seminar, or presentation if the
24 required subjects are covered.

25 (b) Beginning January 1, 2015, all elected municipal
26 officers must complete 4 hours of ethics training each calendar
27 year which addresses, at a minimum, s. 8, Art. II of the State
28 Constitution, the Code of Ethics for Public Officers and
29 Employees, and the public records and public meetings laws of
30 this state. This requirement may be satisfied by completion of a
31 continuing legal education class or other continuing
32 professional education class, seminar, or presentation if the
33 required subjects are covered.

34 (c) ~~(b)~~ The commission shall adopt rules establishing
35 minimum course content for the portion of an ethics training
36 class which that addresses s. 8, Art. II of the State
37 Constitution and the Code of Ethics for Public Officers and
38 Employees.

39 (d) The Legislature intends that a constitutional officer



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40 or elected municipal officer who is required to complete ethics
41 training pursuant to this section receive the required training
42 as close as possible to the date on which he or she assumes
43 office. A constitutional officer or elected municipal officer
44 assuming a new office or new term of office on or before March
45 31 must complete the annual training on or before December 31 of
46 the year in which the term of office began. A constitutional
47 officer or elected municipal officer assuming a new office after
48 March 31 is not required to complete ethics training for the
49 calendar year in which he or she assumes the new office.

50 (3) Each house of the Legislature shall provide for ethics
51 training pursuant to its rules.

52 Section 2. Subsection (1) of section 112.317, Florida
53 Statutes, is amended to read:

54 112.317 Penalties.—

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

64 (a) In the case of a public officer:

- 65 1. Impeachment.
- 66 2. Removal from office.
- 67 3. Suspension from office.
- 68 4. Public censure and reprimand.



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69 5. Forfeiture of no more than one-third of his or her
70 salary per month for no more than 12 months.

71 6. A civil penalty not to exceed \$10,000.

72 7. Restitution of any pecuniary benefits received because
73 of the violation committed. The commission may recommend that
74 the restitution penalty be paid to the agency of which the
75 public officer was a member or to the General Revenue Fund.

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

79 1. Dismissal from employment.

80 2. Suspension from employment for not more than 90 days
81 without pay.

82 3. Demotion.

83 4. Reduction in his or her salary level.

84 5. Forfeiture of no more than one-third salary per month
85 for no more than 12 months.

86 6. A civil penalty not to exceed \$10,000.

87 7. Restitution of any pecuniary benefits received because
88 of the violation committed. The commission may recommend that
89 the restitution penalty be paid to the agency by which the
90 public employee was employed, or of which the officer was deemed
91 to be an employee, or to the General Revenue Fund.

92 8. Public censure and reprimand.

93 (c) In the case of a candidate who violates this part or s.
94 8(a) and (i), Art. II of the State Constitution:

95 1. Disqualification from being on the ballot.

96 2. Public censure.

97 3. Reprimand.



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98 4. A civil penalty not to exceed \$10,000.

99 (d) In the case of a former public officer or employee who
100 has violated a provision applicable to former officers or
101 employees or whose violation occurred before the officer's or
102 employee's leaving public office or employment:

103 1. Public censure and reprimand.

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

105 3. Restitution of any pecuniary benefits received because
106 of the violation committed. The commission may recommend that
107 the restitution penalty be paid to the agency of the public
108 officer or employee or to the General Revenue Fund.

109 (e) In the case of a person who is subject to the standards
110 of this part, other than a lobbyist or lobbying firm under s.
111 112.3215 for a violation of s. 112.3215, but who is not a public
112 officer or employee:

113 1. Public censure and reprimand.

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

115 3. Restitution of any pecuniary benefits received because
116 of the violation committed. The commission may recommend that
117 the restitution penalty be paid to the agency of the person or
118 to the General Revenue Fund.

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

122 112.322 Duties and powers of commission.—

123 (1) It is the duty of the Commission on Ethics to receive
124 and investigate sworn complaints of a violation of the code of
125 ethics as established in this part, of a violation of a standard
126 of conduct adopted pursuant to s. 112.326 which is identical to



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127 a standard of conduct in this part, and of any other breach of
128 the public trust, as provided in s. 8(f), Art. II of the State
129 Constitution, including investigation of all facts and parties
130 materially related to the complaint at issue.

131 (2) (a) Any public officer or employee may request a hearing
132 before the Commission on Ethics to present oral or written
133 testimony in response to allegations that he or she ~~such person~~
134 violated the code of ethics established in this part or a
135 standard of conduct adopted pursuant to s. 112.326 which is
136 identical to a standard of conduct in this part, or allegations
137 of any other breach of the public trust, as provided in s. 8,
138 Art. II of the State Constitution, if provided a majority of the
139 commission members present and voting consider that the
140 allegations are of such gravity as to affect the general welfare
141 of the state and the ability of the subject public officer or
142 employee to effectively ~~to~~ discharge the duties of the office.
143 If the allegations made against the subject public officer or
144 employee are made under oath, the public officer or employee
145 ~~then he or she~~ shall also be required to testify under oath.

146 (3) (a) A ~~Every~~ public officer, candidate for public office,
147 or public employee, when in doubt about the applicability and
148 interpretation of this part, a standard of conduct adopted
149 pursuant to s. 112.326 which is identical to a standard of
150 conduct in this part, or s. 8, Art. II of the State Constitution
151 to himself or herself in a particular context, may submit in
152 writing the facts of the situation to the Commission on Ethics
153 with a request for an advisory opinion to establish the standard
154 of public duty. Any public officer or employee who has the power
155 to hire or terminate employees may likewise seek an advisory



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156 opinion from the commission as to the application of ~~the~~
157 ~~provisions of~~ this part, a standard of conduct adopted pursuant
158 to s. 112.326 which is equivalent to a standard of conduct in
159 this part, or s. 8, Art. II of the State Constitution to any
160 such employee or applicant for employment. The commission may
161 provide an informal advisory opinion or a formal advisory
162 opinion. If a formal ~~An~~ advisory opinion is ~~shall be~~ rendered by
163 the commission, ~~and each~~ such opinion must ~~shall~~ be numbered,
164 dated, and published without naming the person making the
165 request, unless such person consents to the use of his or her
166 name.

167 (b) If the executive director determines that sufficient
168 legal or formal advisory opinion precedent exists to establish
169 the standard of public duty, the executive director must provide
170 the requestor with a written informal advisory opinion
171 containing the requested guidance. The commission must render an
172 informal advisory opinion within 10 business days after receipt
173 of the request, unless the executive director determines that
174 good cause exists for a reasonable extension of time.

175 (c) If insufficient precedent exists, or if there is
176 substantial concern that the commission would render an opinion
177 differing from that stated in applicable opinions or legal
178 precedent under the material facts presented, commission staff
179 shall prepare a draft formal opinion of the commission. The
180 commission must address the draft formal opinion request at the
181 next scheduled commission meeting, unless good cause exists for
182 a reasonable extension of time.

183 (d) ~~(b)~~ An informal or formal advisory ~~Such~~ opinion, until
184 amended or revoked, shall be binding on the conduct of the



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185 officer, employee, or candidate who sought the opinion or with
186 reference to whom the opinion was sought, unless material facts
187 were omitted or misstated in the request for the advisory
188 opinion, or have subsequently changed. If the material facts do
189 not differ from those contained in the request, and the
190 requestor has complied with the guidance provided by the
191 commission or the executive director, the commission shall
192 dismiss any complaint alleging that the conduct that is the
193 subject of the formal or informal advisory opinion violated this
194 part or s. 8, Art. II of the State Constitution.

195 (5) The commission may recommend that the Governor initiate
196 judicial proceedings in the name of the state against any
197 executive or administrative state, county, or municipal officer
198 to enforce compliance with any provision of this part, a
199 standard of conduct adopted pursuant to s. 112.326 which is
200 identical to a standard of conduct in this part, or ~~of~~ s. 8,
201 Art. II of the State Constitution or to restrain violations of
202 this part, a standard of conduct adopted pursuant to s. 112.326
203 which is identical to a standard of conduct in this part, or ~~of~~
204 s. 8, Art. II of the State Constitution, pursuant to s. 1(b),
205 Art. IV of the State Constitution; and the Governor may without
206 further action initiate such judicial proceedings.

207 (7) The commission may prepare materials designed to assist
208 persons in complying with the provisions of this part, with a
209 standard of conduct adopted pursuant to s. 112.326 which is
210 identical to a standard of conduct in this part, and with s. 8,
211 Art. II of the State Constitution.

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



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214 112.3231 Time limitations.-

215 (1) On or after October 1, 1993, all sworn complaints
216 alleging a violation of this part, a violation of a standard of
217 conduct adopted pursuant to s. 112.326 which is identical to a
218 standard of conduct in this part, or of any other breach of the
219 public trust within the jurisdiction of the Commission on Ethics
220 under s. 8, Art. II of the State Constitution, shall be filed
221 with the commission within 5 years of the alleged violation or
222 other breach of the public trust.

223 Section 5. Subsection (1) of section 112.324, Florida
224 Statutes, is amended to read:

225 112.324 Procedures on complaints of violations and
226 referrals; public records and meeting exemptions.-

227 (1) The commission shall investigate an alleged violation
228 of this part, a standard of conduct adopted pursuant to s.
229 112.326 which is equivalent to a standard of conduct in this
230 part, or other alleged breach of the public trust within the
231 jurisdiction of the commission as provided in s. 8(f), Art. II
232 of the State Constitution:

233 (a) Upon a written complaint executed on a form prescribed
234 by the commission and signed under oath or affirmation by any
235 person; or

236 (b) Upon receipt of a written referral of a possible
237 violation of this part or other possible breach of the public
238 trust from the Governor, the Department of Law Enforcement, a
239 state attorney, or a United States Attorney which at least six
240 members of the commission determine is sufficient to indicate a
241 violation of this part or any other breach of the public trust.

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243 Within 5 days after receipt of a complaint by the commission or
244 a determination by at least six members of the commission that
245 the referral received is deemed sufficient, a copy shall be
246 transmitted to the alleged violator.

247 Section 6. Section 112.326, Florida Statutes, is amended to
248 read:

249 112.326 Additional requirements by political subdivisions
250 and agencies not prohibited.—

251 (1) ~~Nothing in~~ This part does not prohibit the electors or
252 ~~act shall prohibit~~ the governing body of a any political
253 subdivision, by charter or ordinance, or agency, by rule, from
254 imposing upon its own officers and employees additional or more
255 stringent standards of conduct and disclosure requirements than
256 those specified in this part, ~~if provided that~~ those standards
257 of conduct and disclosure requirements do not otherwise conflict
258 with ~~the provisions of~~ this part. If a political subdivision or
259 agency has imposed a standard of conduct identical to a standard
260 contained in this part, a complaint regarding allegations of a
261 breach of such standard, or a request for an advisory opinion
262 with respect to such standard, must be made to the commission,
263 which shall respond to the complaint or the request for an
264 advisory opinion in the same manner as provided in ss. 112.317,
265 112.322, and 112.324.

266 (2) A political subdivision is prohibited from imposing
267 additional or more stringent standards of conduct and disclosure
268 requirements upon the public officers and employees of another
269 political subdivision, unless the imposition of such standards
270 and requirements are approved by a majority of the electors in
271 the political subdivision voting upon the measure. This



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272 subsection does not apply to a political subdivision that has
273 imposed additional or more stringent standards of conduct and
274 disclosure requirements upon the public officers and employees
275 of another political subdivision on or before March 1, 2014, and
276 such a political subdivision may impose further additional or
277 more stringent standards of conduct and disclosure requirements
278 upon the public officers or employees of another political
279 subdivision as authorized by law.

280 Section 7. Section 286.012, Florida Statutes, is amended to
281 read:

282 286.012 Voting requirement at meetings of governmental
283 bodies.—A No member of any state, county, or municipal
284 governmental board, commission, or agency who is present at any
285 meeting of any such body at which an official decision, ruling,
286 or other official act is to be taken or adopted may not abstain
287 from voting in regard to any such decision, ruling, or act; and
288 a vote shall be recorded or counted for each such member
289 present, unless ~~except when~~, with respect to any such member,
290 there is, or appears to be, a possible conflict of interest
291 under ~~the provisions of~~ s. 112.311, s. 112.313, ~~or~~ s. 112.3143,
292 or additional or more stringent standards of conduct, if any,
293 adopted pursuant to s. 112.326. If there is, or appears to be, a
294 possible conflict under s. 112.311, s. 112.313, or s. 112.3143,
295 the member shall comply with the disclosure requirements of s.
296 112.3143. If the only conflict or possible conflict is one
297 arising from the additional or more stringent standards adopted
298 pursuant to s. 112.326, the member shall comply with any
299 disclosure requirements adopted pursuant to s. 112.326. If the
300 official decision, ruling, or act occurs in the context of a



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301 quasi-judicial proceeding, a member may abstain from voting on
302 such matter if the abstention is to assure a fair proceeding
303 free from potential bias or prejudice ~~In such cases, said member~~
304 ~~shall comply with the disclosure requirements of s. 112.3143.~~

305 Section 8. This act shall take effect July 1, 2014.

306
307 ===== T I T L E A M E N D M E N T =====

308 And the title is amended as follows:

309 Delete everything before the enacting clause
310 and insert:

311 A bill to be entitled

312 An act relating to governmental ethics; amending s.
313 112.3142, F.S.; requiring elected municipal officers
314 to complete annual ethics training; providing
315 legislative intent; amending s. 112.317, F.S.;
316 conforming a provision to changes made by the act;
317 amending s. 112.322, F.S.; revising the duties and
318 powers of the Commission on Ethics; requiring the
319 commission to receive and investigate complaints
320 alleging certain violations of a standard of conduct
321 imposed by a political subdivision or agency;
322 specifying the circumstances in which the commission
323 may render an informal or formal advisory opinion;
324 requiring the commission to dismiss a complaint under
325 certain circumstances; conforming provisions; amending
326 s. 112.3231, F.S.; requiring that complaints alleging
327 a violation of certain standards of conduct within the
328 commission's jurisdiction be filed within a specified
329 timeframe; amending s. 112.324, F.S.; conforming a



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330 provision to changes made by the act; amending s.
331 112.326, F.S.; requiring the commission to respond to
332 certain complaints or requests for advisory opinions;
333 prohibiting a political subdivision or agency from
334 imposing additional standards of conduct upon the
335 public officers and employees of another political
336 subdivision; providing exceptions; amending s.
337 286.012, F.S.; revising disclosure requirements with
338 respect to a voting abstention at a meeting of a
339 governmental body; authorizing a member to abstain
340 from voting on a decision, ruling, or act in a quasi-
341 judicial proceeding under certain circumstances;
342 providing an effective date.